United States Court of Appeals

for the Second Circuit

ADDENDUM

76-4049, 61, 74

B P/S

IN THE

United States Court of Appeals

FOR THE SECOND CIRCUIT

ITT WORLD COMMUNICATIONS, INC., RCA GLOBAL COMMUNICATIONS, INC., and WESTERN UNION INTERNATIONAL, INC.,

Petitioners,

—against—

FEDERAL COMMUNICATIONS COMMISSION and UNITED STATES OF AMERICA,

Respondents,

—and—

AMERICAN TELEPHONE AND TELEGRAPH COMPANY, XEROX CORPORATION, AMERICAN PETROLEUM INSTITUTE and HAWAIIAN TELEPHONE COMPANY,

Intervenors.

PETITION FOR REVIEW OF MEMORANDUM OPINION AND ORDER OF THE FEDERAL COMMUNICATIONS COMMISSION

B P/S

ADDENDUM TO PETITIONERS' BRIEFS

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Inquiry Into Policy To Be Followed In Future Authorization Of Overseas Dataphone Service	))))	Docket No. 19558

To: The Commission

PETITION FOR INTERCONNECTION

In its Report and Order released January 19, 1976 (Order) [1/] in the above-captioned matter, the Commission stated that, within 30 days of the release date of the Order, it would "entertain pleadings from the international carriers regarding what facilities and interconnections, not presently provided, are necessary for their proposed services." [2/]

In an effort to determine the type of interconnection "not presently provided" American Telephone and Telegraph Company (AT&T) requested a meeting with the international record carriers

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1/ ___FCC 2d___, FCC 76-10, released January 19, 1976.

2/ Id, p. 8. By letters dated February 13, 1976 and March 16, 1976, The Chief, Common Carrier Bureau extended the date for the filing of such pleadings, and they are now due April 9, 1976.

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(IRC's). Such a meeting was held on February 4, 1976. At that meeting it was felt that the information that the IRC's would require in order to make a meaningful interconnection request of AT&T could best be developed by a technical subcommittee, which was established.

Meetings of the technical subcommittee regarding this matter were held on February 13, February 27, and March 9, 1976. At each of these meetings ITT World Communications Inc. (ITT Worldcom) took the position that the type of interconnection "not presently provided" which it desired was one which would afford ITT Worldcom access to the domestic network of the Bell System on the same basis as AT&T Longlines. And ITT Worldcom views this equality of access as absolutely essential to enable it to compete with the international Dataphone service to be offered by AT&T.

In order to accomplish this, ITT Worldcom hereby requests that it be permitted by AT&T to interface on a four-wire basis to a four-wire switch at a suitable level in the hierarchy of the Bell System. The ITT Worldcom switch would then be comparable to at least a class 4 "toll center" equipped with number 4 cross bar toll tandem equivalent switch which would connect directly by inter-switch trunk to class 3 (Primary), class 2 (Sectional) and/or class 1 (Regional) centers in the Bell System. In order to permit domestic

Bell System and Independent Telephone Company subscribers to access ITT Worldcom with the same ease (and on an automatic basis) as they now access AT&T Longlines for the transmission and reception of international traffic, each such subscriber should be able to reach his called party via ITT Worldcom by dialing the same number of digits as he would for routing via AT&T Longlines. ITT Worldcom would therefore have to be assigned a 3 digit code comparable to AT&T's 011 to prefix the national code to the called party's number for IDDD calls. Bell System centers would have to set up automatic international calls via ITT Worldcom in the same manner as they presently do by AT&T international switching centers (ISC), using 2-stage outpulsing with a 6-digit code to describe the IRC operating center and the destination country. Diagrams illustrating the interconnection herein proposed are attached hereto as Appendices I, II and III. This is extremely important since it would be devastating from a competitive point of view if AT&T were able to offer automatic international Dataphone service and the IRC's nothing but manual, operator-assist, Dataphone-type service.

Furthermore, at least for the foreseeable future, there will be a substantial number of operator-assist international Dataphone calls. Therefore, operators handling assist calls placed via a Bell-

System international operating center (IOC) or a Bell System international originating toll center (IOTC) would have to perform the same type of function to place operator-assist international calls via an international record carrier. Operator-assist procedures would have to be formulated to permit present Bell System subscribers to specify routing via AT&T, ITT Worldcom or any other international record carrier. In the absence of specification as to routing, international dataphone calls should be distributed on a mutually agreed to allocation basis.

The interconnection required by ITT Worldcom would also require that calls placed via ITT Worldcom would have to have a domestic routing equivalent to international Dataphone calls placed via AT&T. At the very least, such calls should not have more than one additional link depending upon their point of access to the Bell System.

At the meeting held on February 4, 1976 among AT&T and the international record carriers, and at each of the technical subcommittee meetings, ITT Worldcom made it clear that it would be satisfied with nothing less than equality of access, and that this was the type of interconnection "not presently provided" which it needed to match the overwhelming competitive advantages possessed by AT&T.

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And ITT Worldcom believes that such interconnection was contemplated by the Order. This also appears to be the view of the Department of Justice, Anti-Trust Division. In a recent address to the NAM Communications Committee, Jonathan C. Rose, Deputy Assistant Attorney General, Anti-Trust Division, stated in commenting on the Order:

> "In the international communications field, the Commission has undertaken to reexamine some of the old, outdated service restrictions imposed on carriers. Recently, the FCC has changed the rules that restricted competition in providing international data service. By lifting the restrictions on AT&T providing such service, it has made it possible for it to compete with the international record carriers. And, at the same time, it has apparently required AT&T to change its system interconnection standards, to afford the record carriers access to AT&T's switches and other equipment in order to compete." (emphasis added) 3/

Nevertheless, the Bell System representatives at the technical subcommittee meetings categorically rejected equal

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3/ Communications News, April, 1976, p. 17.

access interconnection. The ostensible reason given for this seemingly arbitrary position was the allegedly prohibitive cost of providing the equality of access interconnection desired by ITT Worldcom. However, Bell System representatives at the technical subcommittee meetings admitted that no studies had been made by Bell to support its estimate of the cost of equality of access interconnection. Nor apparently was AT&T willing to undertake such studies.

Moreover, in addition to its seemingly arbitrary refusal to provide equality of access interconnection above discussed, ITT Worldcom requests that AT&T be required to provide ITT Worldcom with billing and accounting information similar to that exchanged between components of the Bell System. Additionally, reliable international dataphone-type service requires the agreement of the Bell System to engage in cooperative maintenance and equipment testing with the international record carriers as well as consideration of the international record carriers' operations in the planning and future development of international AT&T's Dataphone service in conjunction with its domestic Bell System and independent telephone companies as well as Bell's overseas correspondents.

In order to properly bill for international dataphone-type calls, ITT Worldcom will require as a minimum: (a) the called party's telephone number, (b) the calling party's telephone number, (c) the date of the call, (d) the time of the call, and (e) the duration of the call.

In the Bell System the called and calling party's number are pulsed from the originating end office to automatic message accounting equipment in a toll tandem switch or Traffic Service Position System. Where possible this information should alternately be pulsed to an international record carrier for billing in connection with dataphone-type calls. In cases where an international record carrier switch interfaces the Bell System hierarchy at a level above which this information is available, the billing tapes or other records made by AT&T should be provided to the international record carrier for accounting and settlement purposes.

In order to provide responsiveness and reliable service to its customers, ITT Worldcom must have operational access to AT&T's Data Test Centers. This entails cooperative testing arrangements between these centers and ITT Worldcom's Operating Center.

Finally, consideration of international record carrier operation and of the international record carrier's international service offerings must be given by the Bell System both in its own network

planning and in planning negotiations carried on with foreign administrations regarding the development of the international switched telecommunications systems. The need for consideration of the international record carriers's role is particularly acute in the following areas:

common channel interoffice signalling (CCIS)

multiple satellite path routing precautions

digital network evolution

digital network signalling and interconnection

interconnection with overseas networks

future access and numbering plan schemes

ITT Worldcom believes that the equal access interconnection requested herein is in fact feasible. However, ITT Worldcom also believes, based on AT&T's past history of calculated intransigence in dealing with domestic specialized common carriers and other would-be competitors, that such interconnection can only be achieved with the assistance of the Commission.

ITT Worldcom therefore suggests that negotiations be undertaken by AT&T with the international record carriers under the aegis of the Chief, Common Carrier Bureau, in the same manner as negotiations were undertaken to settle the interconnection and related

issues in Docket No. 20099. 1/

ITT Worldcom believes that it is essential for the success of such negotiations that the Commission not act on any application filed by AT&T pursuant to Section 214 of the Communications Act of 1934, as amended, for authority to modify its existing authorizations to include authority to provide international Dataphone service, at least until after such negotiations have been concluded.

For the reasons above stated, ITT Worldcom requests that the Commission order AT&T to provide ITT Worldcom with equal access interconnection of the type described herein for the provision of international dataphone-type service, together with necessary billing and accounting information. It should also require AT&T to cooperate with the international record carriers in the providing of such service and in the planning of future facilities related thereto. In the alternative, the Commission should

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1/ Negotiations of this type between AT&T and the Radio Common Carriers under the aegis of the Chief, Common Carrier Bureau are presently in progress and are expected to conclude by mid-April (Public Notice, dated March 25, 1976, Mimeo No. 62714).

order that negotiations be held under the aegis of the Chief, Common Carrier Bureau, for the purpose of obtaining the voluntary acquiescence of AT&T regarding interconnect and related matters in connection with the provision of international data-phone-type service by the international record carriers, or failing that order a hearing under Section 201 of the Communications Act of 1934, as amended, on the interconnection issue.

Respectfully submitted,

ITT WORLD COMMUNICATIONS INC.

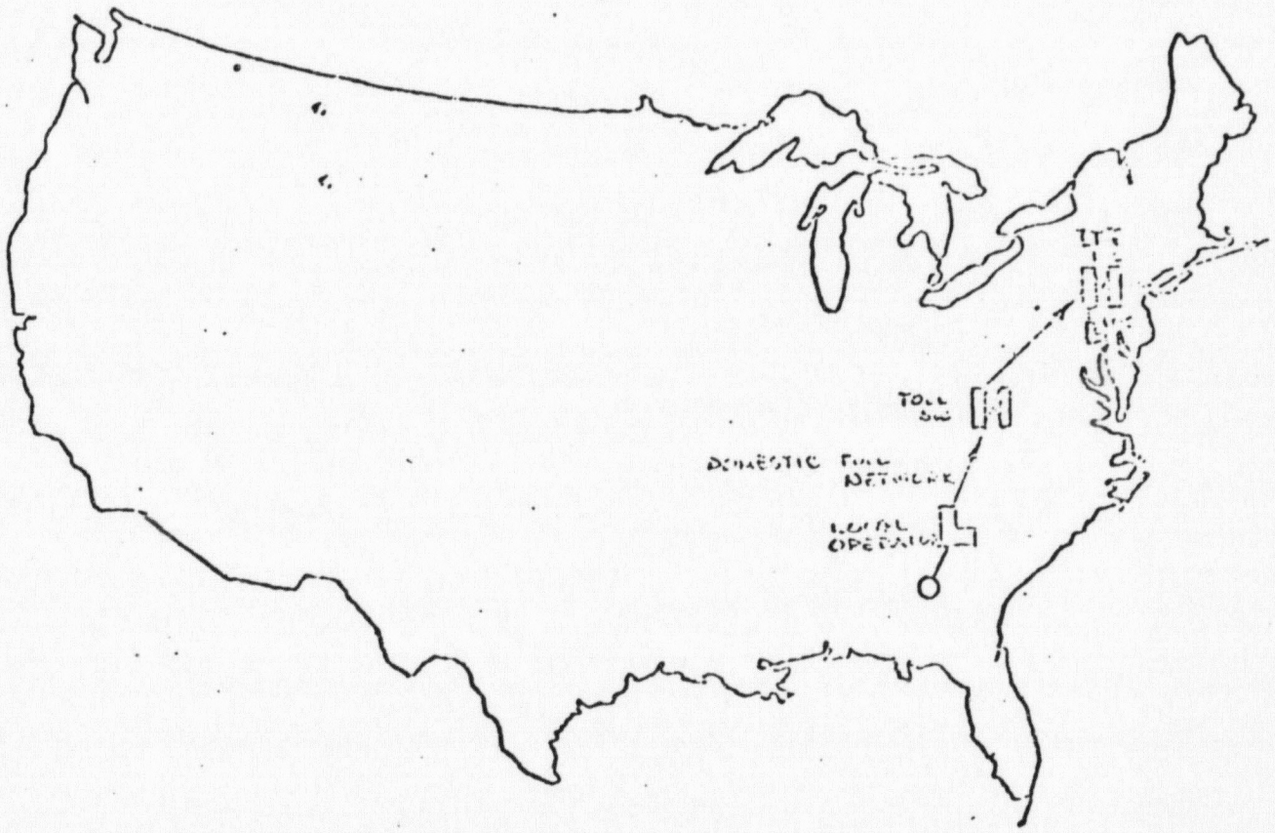
By

Joseph J. Jacobs

Its Attorney
67 Broad Street
New York, N.Y. 10004

Dated: April 8, 1976

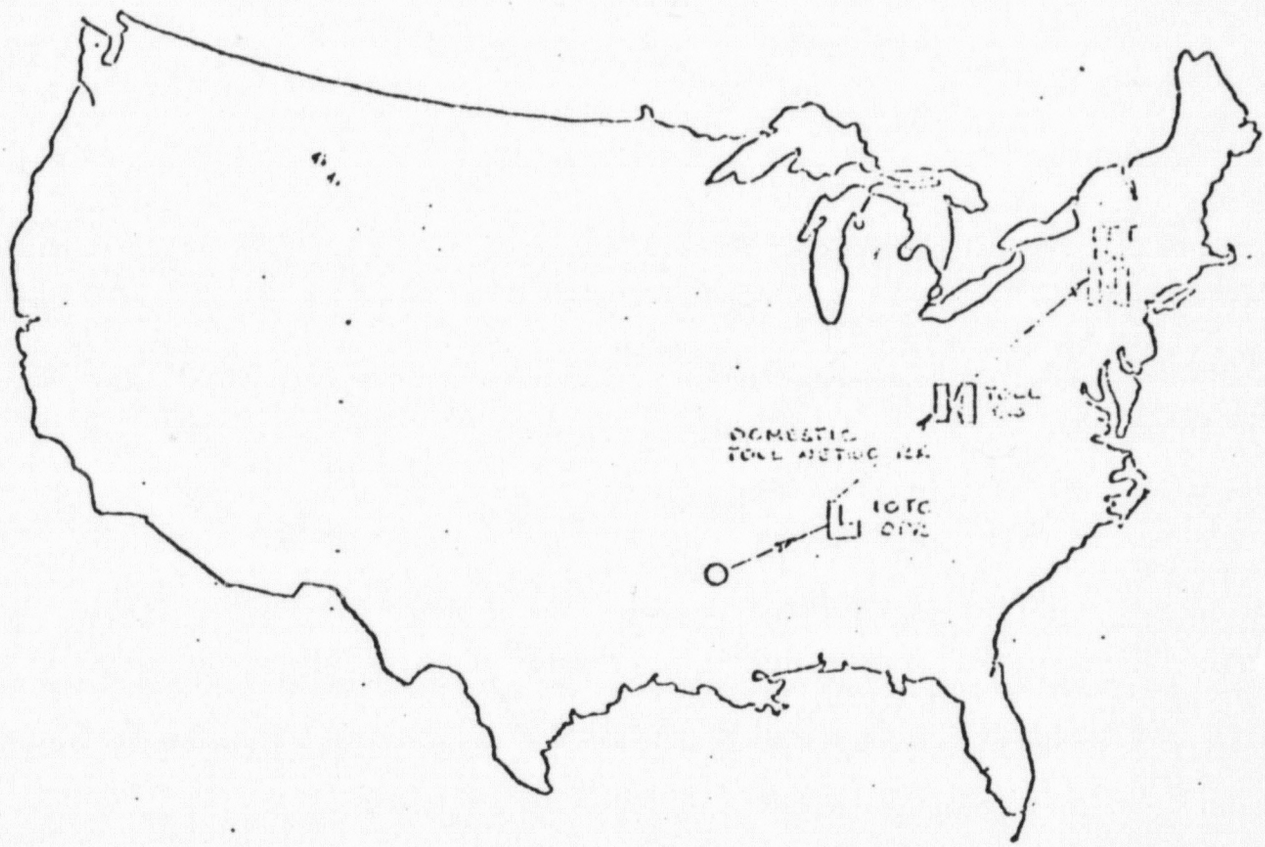
APPENDIX I



An international call via ITT Worldcom is placed by a subscriber in an Independent Telephone Comapany or Bell System exchange where International Operating Center (IOC) Traffic Routing is used. The call is manually handled and the calling party's local operator connects to an ITT IOC operator who then routes the call overseas via ITT Worldcom's International Switching Center (ISC).

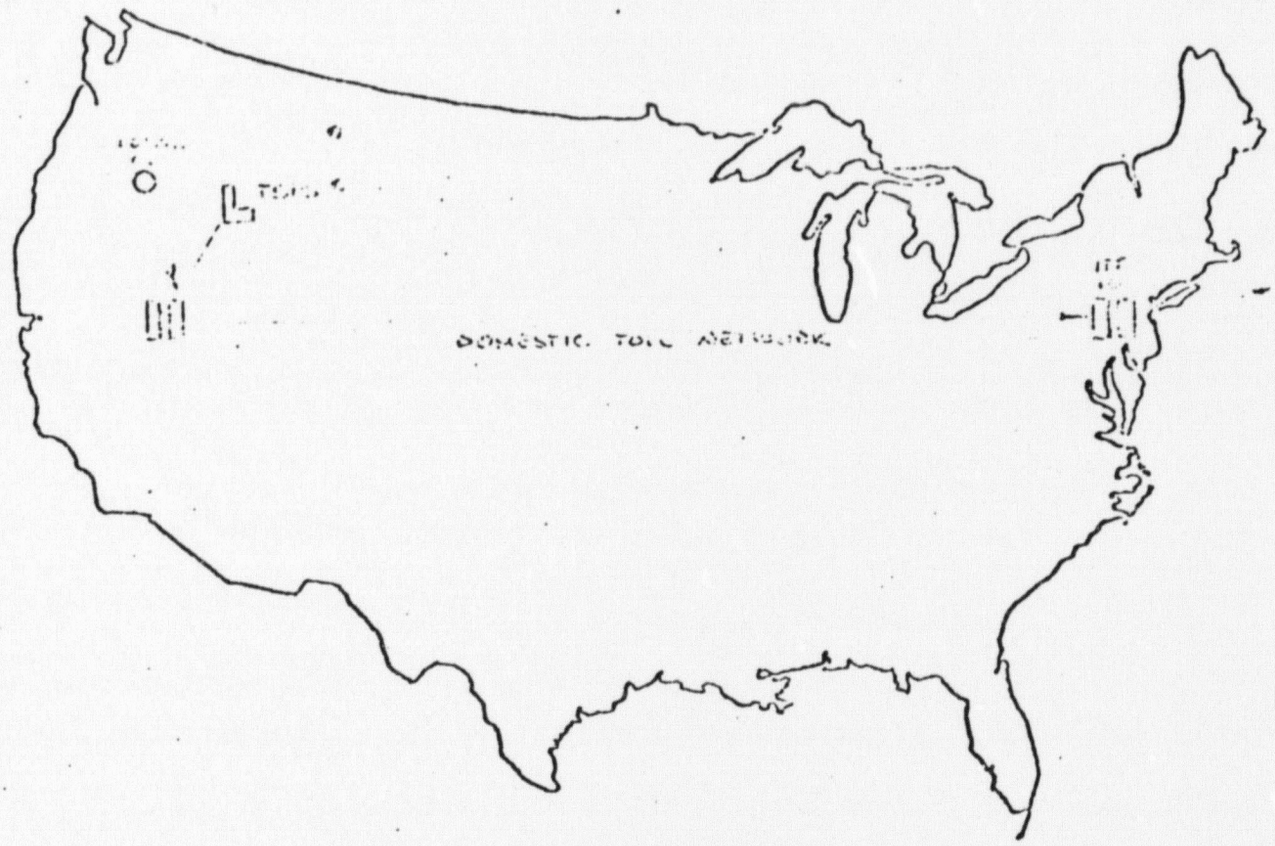
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APPENDIX II



An international call via ITT Worldcom placed by a subscriber in an Independent Telephone Company or Bell System exchange where International Originating Toll Center (IOTC) traffic routing is available. This call is manually handled and Independent Telephone Company or Bell System IOTC Operator places the call through ITT Worldcom's International Switching Center.

APPENDIX III



An international call placed via ITT by a subscriber in a Bell System, or Independent Telephone Company exchange where International Direct Distance Dialing (IDDD) is available. The call placement is fully automatic, billing information is recorded in a Bell System or Independent Telephone Company Traffic Service Position System (TSPS) and the ITT International Switching Center (ISC) is accessed from the domestic toll network in the same manner as would the AT&T Long Lines ISCs.

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CERTIFICATE OF SERVICE

I, Kathleen E. Smith, hereby certify that I have this 8th day of April, 1976, mailed by United States Mail, postage prepaid, a copy of ITT Worldcom's "Petition for Interconnection" to the following:

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

In the Matter of	)	
Inquiry Into Policy to be Followed in Future Authorization of Overseas Dataphone Service.	)	Docket No. 19558

COMMENTS ON INTERCONNECTION
OF RCA GLOBAL COMMUNICATIONS, INC.

Pursuant to Paragraph 16 of the Commission's Report and Order in this proceeding, released January 19, 1976 (FCC 76-10), hereafter the "Dataphone Order," RCA Global Communications, Inc. (RCA Globcom) submits the following comments* with respect to interconnection arrangements with the domestic public telephone network of American Telephone and Telegraph Company (AT&T) and its affiliates which the Dataphone Order contemplated would be provided to the voice/record carriers for their existing and proposed overseas switched voice/data, data and facsimile services. The Commission specifically stated in the Dataphone Order its expectation "that appropriate agreements for interconnection can

*RCA Globcom's Comments herein are specifically addressed to the question of interconnection with AT&T facilities as required by the Dataphone Order. The lawfulness of the Commission's basic determination in that Order to permit AT&T entry into the overseas data communications market is presently before the U.S. Court of Appeals for the Second Judicial Circuit. (ITT World Communications Inc. et al. v. FCC, Docket Nos. 76-4049 etc.).

be reached, pursuant to our policies established for domestic common carriers."* Thus, the Commission's express intention was that AT&T interconnect with the voice/record carriers for their services on a basis consistent with the principles set forth in the domestic private line cases which would permit both meaningful market participation by the voice/record carriers and the possibility of competition with AT&T-provided facilities.

Recommendations

In order to give effect to the Commission's policy stated above, we submit it is essential that access arrangements must be provided in such a way as to insure that the public finds it as convenient to use the public switched telephone network to reach RCA Globcom's facilities both for existing overseas Datel service and for more specialized switched voice/data, data-only and facsimile services** as it is to reach facilities provided by the AT&T Long Lines Department for overseas service. Furthermore, the quality of the facilities provided to RCA Globcom must equal those AT&T provides for its own overseas service.

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*Dataphone Order, para. 16, citing Bell System Tariff Offerings, 46 FCC 2d 413 (1974); aff'd sub nom Bell Telephone Co. of Pennsylvania v. FCC, 503 F. 2d 1250 (1974); cert. denied, 43 U.S.L.W. 3654 (1975).

**It should be noted that the type of information handled by means of dataphone-type services is essentially that now accommodated by the existing overseas Datel service, except that alternate voice use of Datel is permitted only between the Mainland and Hawaii.

Unless access is provided on such a basis, the practical effect of the Dataphone Order will be not only to allow AT&T to serve the overseas switched data market, but to give it a virtual monopoly of data traffic originating or terminating on the domestic public telephone network which is by far the largest portion of that market. Such a result would be contrary to enunciated Commission policy pronouncements on competition in both the domestic and overseas areas.

Certainly, it would be improper to compound the severe handicap under which the voice/record carriers must operate in attempting to provide switched overseas voice/data, data and facsimile services in a market served directly by AT&T given the Bell System's size, nationwide service area and effective monopoly of both domestic and international message telephone service. However, this is precisely the situation which would exist if AT&T is permitted to have a "built in" practical advantage which will require data subscribers using the domestic telephone network to dial anywhere from 7 to 20 or more extra digits to access the facilities of the voice/record carriers than would be required to send their overseas data calls via AT&T. In such circumstances, we fear that no appreciable amount of data traffic originating or terminating on the public switched telephone network will ever reach the voice/record carriers.

We submit this would be contrary to the intent of the Dataphone Order, in making express reference to the domestic private line cases, that the voice/record carriers be able to access data customers on the public telephone network on "a full, fair and non-discriminatory basis" consistent with Commission policy.* Clearly, such access is necessary to afford the voice/record carriers a reasonable opportunity to obtain a meaningful share of the overseas data business generated by customers on the public switched telephone network to "provide users with flexibility and a wider range of choices" to meet their overseas data communication requirements.** Certainly, AT&T has no "automatic" right to meet exclusively the overseas data needs of these users nor would the public interest be served by such a result.

The series of technical meetings recently held between voice/record carrier and AT&T representatives, ostensibly for the purpose of providing information to enable the voice/record carriers to be better able to articulate their interconnection requirements, indicated that AT&T believes that the size and complexity of the telephone system will impede voice/record carrier efforts to obtain meaningful access to domestic data customers on an equivalent basis in accordance with Commission policy.

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*Bell System Tariff Offerings, supra.

**Specialized Common Carrier Services, 29 FCC 2d 879, 909 (1971).

Under the circumstances, AT&T cannot be granted authority to implement overseas dataphone-type service until there is resolution of the interconnection question on a basis which is both fair and equitable and does not inherently discriminate against the voice/record carriers and prevent any possibility of competition with AT&T. AT&T should also not be allowed to proceed to offer overseas dataphone-type service until any restrictions on alternate voice use of Datel are removed. We submit the voice/record carriers must be allowed to provide overseas alternate voice/data services to the same extent AT&T provides them.*

Consistent with the terms of the Dataphone Order, the Commission should accordingly issue forthwith "further appropriate orders"** to require compliance by AT&T with Commission policy on interconnection as a precondition to any grant to provide overseas dataphone-type service and to eliminate any restraints on alternate voice use of Datel. Furthermore, such grants of authority as AT&T may eventually be given for overseas dataphone-type service should contain "necessary conditions"*** to assure that AT&T will meet all reasonable interconnection requirements of the voice/record carriers.

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*ITT World Communications Inc., 2 FCC 2d 573 (1966).

**Dataphone Order, para. 16.

***Ibid.

Clearly, if the Commission grants authority to AT&T for overseas Dataphone service before fair interconnection is provided to the voice/record carriers, AT&T will obtain an undeserved and unwarranted head start in serving this market. Indeed, if AT&T is allowed to offer its own service immediately under significantly more advantageous terms because customers can use AT&T overseas facilities with greater ease than the facilities of the voice/record carriers, the voice/record carriers could be effectively foreclosed from this market.

RCA Globcom
Interconnection Requirements

RCA Globcom believes it essential that customers in the U.S. have the capability to use a carrier whose primary business is data communications to meet their overseas data requirements both at low and high speeds and both switched and private line. Therefore, RCA Globcom plans to use innovative applications of communications technology to meet the basic needs of all segments of the overseas market for switched voice/data, data and facsimile communications. First, we will enhance the existing Datel service and price such service on a basis comparable with prevailing telephone rates on parallel routes. Second, we plan to expand our Datel service to incorporate additional public offerings at higher speeds and improved orders of transmission accuracy to meet more specialized needs of the public.

1. The Dataphone Order Contemplates That Equitable Access Arrangements To AT&T Facilities Will Be Provided To The Voice/Record Carriers

The ability of existing Datel service to satisfy the public's need for overseas switched voice/data service has been restricted by the lack of suitable interconnection facilities to the public switched network and by the prohibition on alternate voice use except between the continental U.S. and Hawaii. The existing interconnection method, whereby public network access to Datel service is provided via manual arrangements, imposes severe operational limitations upon the type of Datel services which can be offered by the voice/record carriers.*

To foster the development of the international switched voice/data market sector, RCA Globcom submits that the present interconnection between the voice/record carriers' Datel service and the public telephone network must at a minimum be upgraded to meet the following basic objectives:

A. The interconnection between the voice/record carriers' and AT&T's facilities should be on a four-wire trunk basis rather

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*Under present arrangements, a Dataphone user must dial a 7 or 10 digit number depending on his location to reach a voice/record carrier Datel operator. The Datel operator must obtain the number of the called party. The operator then either places the call on hold or terminates the call subject to reconnection when the called party is available. The operator then dials up the overseas party on one of the Datel trunks. When the called party is on line, a manual patch is made.

than a two-wire station termination as at present. Domestic trunk facilities provided to the voice/record carriers should be equivalent both operationally and electrically to the facilities currently interconnecting AT&T's existing seven international switching centers with the domestic public telephone network.

B. Subscribers desiring access to our facilities should be required to dial an international prefix of not more than 3 digits to access each respective voice/record carrier.

Three-digit access will be provided to users by AT&T using the existing IDDD numbering plan. Clearly, for the voice/record carriers to participate in the international switched voice/data market, access to the international services provided by either AT&T or the voice/record carriers must be on an equivalent basis. RCA Globcom believes a numbering plan with three-digit access to the voice/record carriers is technically realizable.

Exhibit 1, attached hereto and made part hereof, describes in detail the type of interconnection facilities with AT&T we feel are necessary for the enhanced Datel and specialized switched data services now in development.

2. There Should Be No Voice Restriction On Datel

Even-handed regulation and basic fairness require that there be no restriction on alternate voice use of the existing Datel

service. As the Commission stated in authorizing the lifting of this restriction between the Mainland and Hawaii:

> "[U]nder our rulings A.T.&T. and HTC at present have a favored position in Hawaii because their Data-Phone customers are not restricted in the use of voice for contact control, as are the customers of the record carriers. ITT here merely asks the right to compete in a somewhat more equal manner with the voice carriers in providing its Datel Service, a service similar to Data-Phone, and we do not think that we should compound the advantage which the voice carriers now have by continuing a restriction on the amount of voice use the customers of the record carriers may make. Even if the ITT application were to be granted it would not be in a position of equality with A.T.&T. and HTC. This is because these two carriers have a great advantage over the record carriers in that they provide Data-Phone Service through access to the vast domestic system of A.T.&T., an advantage that the customers of the record carriers now lack."*

We submit the rationale of this ruling is equally applicable to the instant situation and in keeping with the Dataphone Order.

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*ITT World Communications Inc., supra, at 576 (1966).

3. AT&T Should Be Required To Provide Basic Information On Its Data Customers

The existing dial-up data users obviously represent a primary market for the new international service. At present, AT&T has sole access to the identification of all Dataphone users and users now provided with data access arrangements (DAAs) to interconnect independent data modems* which total over 500,000 in the U.S.

RCA Globcom submits that this is but one more factor illustrating the magnitude of the problem which will be faced by the voice/record carriers in attempting to secure a share of the international switched voice/data market in which AT&T is a participant. RCA Globcom believes that to enable the voice/record carriers to compete for the overseas traffic generated by the installed base of domestic dial-up data users, AT&T should be required to provide the voice/record carriers with the following information concerning all Dataphone and DAA installations within the Bell System:

A. The name and address of the user;

B. The telephone number associated with the station;

C. The type of DAA and station equipment;

D. The type of data modem and, if provided by the Bell System, the model and speed.

*Recent changes as a result of the Commission's decision in Docket No. 19528 allow the direct electrical connection of modems to the public switched network.

4. Interconnection Charges Should Be Reasonable And Nondiscriminatory

Another essential feature of any arrangement between AT&T and the voice/record carriers who must interconnect with the Bell System in order to provide their switched voice/data, data and facsimile services is the manner in which payouts by the voice/record carriers to AT&T are to be computed.

The voice/record carriers are required by the very nature of the AT&T effective monopoly of the domestic switched public telephone network to rely upon AT&T for the origination and termination of their traffic. Accordingly, care must be taken that any arrangements made for the sharing, or the division, of tolls between the voice/record carriers and AT&T for handling switched voice/data, data and facsimile services should reflect both the letter and spirit of the Commission's requirements for uniform and nondiscriminatory treatment.* Thus, if Commission policy is to be implemented the voice/record carriers must be accorded pricing, divisions and service treatment as favorable as, for example, the local telephone companies afford the Long Lines Company which will provide the overseas service in competition with the voice/record carriers.

Since there is no body of experience upon which to base divisions, it is suggested that pending agreement and the development

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*See Bell System Tariff Offerings, supra.

of the necessary data, the Commission encourage or direct the interested parties to negotiate an agreement following the general concepts and ratios between payouts and tariff rates which obtained with resepct to TWX/overseas telex interconnection prior to the time when AT&T divested itself of TWX to Western Union. Following such a course would permit prompt formulation of the necessary arrangements and insure the implementation of service pursuant to terms approximating those negotiated between the carriers with respect to another service (TWX/overseas telex) under relatively similar conditions.

RCA Globcom is prepared to cooperate fully with AT&T in exploring all feasible alternatives, including the application of appropriate cost separation principles.

5. An Environment Must Be Created Where New Data Services Will Be Encouraged

For international data communications to achieve maximum growth potential and optimum utility for users in the years ahead, viable access to the public switched telephone network must be provided to the voice/record carriers to enable them to reach and serve effectively by far the largest portion of the domestic data market which originates or terminates on the public network. Such access is necessary to create an environment conducive to effective growth of the market for overseas data communications where incentives will exist to develop new services and improve existing services for the benefit of the public.

As noted above, RCA Globcom plans to make its existing Datel service more attractive to users in terms of cost and utility as well as to implement service initiatives in the switched voice/data, data and facsimile area. As a first step in this direction, we plan to augment our existing Datel service by the addition of a higher-speed offering called Datel II. This developmental switched data service will initially provide users with the capability to transmit high speed data at 4.8 or 9.6 kbps to overseas countries on a dial-up basis. A computer switching facility will be installed at RCA Globcom's East Coast operating center which will interconnect with similar switching computers at the operating centers of RCA Globcom's participating overseas correspondents. RCA Globcom has received the concurrence of the Netherlands administration to inaugurate this international switched data offering on a developmental basis.

Conclusion

In sum, a key factor if not the key factor in the effective development of the entire overseas switched voice/data, data and facsimile market is voice/record carrier trunk access to the U.S. public telephone network, in the manner described in Exhibit I. Such access is required to reach the largest segment of the existing domestic data market which use public telephone network facilities; to have any realistic possibility of competition with AT&T-provided overseas switched voice/data service; and to generate adequate revenue to meet our investment requirements. However, as

evidenced by the history of the Datel service development, where even limited direct electrical network connection took years to implement, we have little confidence that we will be able to obtain a "negotiated" AT&T interconnect on a voluntary basis in a reasonable time frame.

Accordingly, we request that the Commission take appropriate action consistent with the policies set forth in Bell System Tariff Offerings, supra, and affirmed by the courts, to require AT&T as a condition precedent to its own offering of overseas dataphone-type services to: (a) provide us in a timely fashion with the interconnection facilities we require into the existing public telephone network; (b) furnish such facilities on fair, reasonable and nondiscriminatory terms and conditions; and (c) make provision that future generations of telephone plant be designed with the voice/record carriers' requirements taken into consideration. We further request that the continuance of any authority granted to AT&T to offer overseas dataphone-type services be expressly conditioned upon its meeting all reasonable requirements of the voice/record carriers.

Respectfully submitted,

RCA GLOBAL COMMUNICATIONS, INC.

s/Francis J. DeRosa

s/Charles M. Lehrhaupt

Its Attorneys
60 Broad Street
New York, New York 10004

April 9, 1976

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EXHIBIT 1

SPECIFICATIONS FOR PUBLIC SWITCHED TELEPHONE NETWORK INTERCONNECTION TO RCA GLOBCOM FOR OVERSEAS SWITCHED VOICE/DATA, DATA AND FACSIMILE SERVICES

I. General Specifications

1. Interconnection should be accomplished by means of four-wire voice-grade trunks between the RCA Globcom international switching center (ISC) and the serving AT&T four-wire toll center. These trunks should be equipped with a conventional domestic trunk signalling interface, i.e., C.C.I.T.T. Signalling System R1. Interconnection on a four-wire basis is necessary to improve overall data transmission performance be eliminating degradation which can occur in the transition from 4-wire to 2-wire and then back to 4-wire operation.

2. Such trunk access to the toll network will be required from RCA Globcom's east and west coast ISCs.

3. Trunk access facilities provided to RCA Globcom should be maintained under the same standards and engineering practices followed by the Bell System.

II. Numbering Plan

1. Under the present AT&T numbering plan for international calls:

(1) A Dataphone subscriber, when placing an international

call, dials the international prefix either:

-01 (Person-to-Person, Credit Card or Special Call) or

-011 (Station-to-Station)

Plus in either case the country code (1, 2 or 3 digits) and the national [significant] number. (The country code and the national [significant] number are limited to a maximum of twelve (12) digits.)

(2) Typical dialing sequences are as follows:

(a) PPCS Calls (Person-to-Person, Credit Card or Special Call) : 01+ CC + NN

(b) S-S Calls (Station-to-Station) : 011 + CC + NN

Where CC : Country Code

NN : National [Significant] Number

2. We propose that the numbering plan be modified so that the subscriber can have access either to AT&T or a voice/record carrier (VRC) as follows:

01X + CC + NN

Where X : Denotes a single-digit number assigned to a VRC

CC : Country Code

NN : National [Significant] Number

3. An alternative proposal would be to use 00X as the international prefix, where the second zero would indicate an overseas call routed via a voice/record carrier and the third digit the identity of the voice/record carrier and whether the call is station-to-station (S-S) or person-to-person, credit card, etc. (PPCS). The following is a sample assignment plan:

001	VRC A	S-S
002	"	PPCS
003	VRC B	S-S
004	"	PPCS
005	VRC C	S-S
006	"	PPCS
007	VRC D	S-S
008	"	PPCS
009	VRC E	S-S
000	"	PPCS

4. A third access proposal for those subscribers equipped with touch-tone multi-frequency (TTMF) signalling capability is described below:

(1) RCA Globcom proposes that a Dataphone TTMF subscriber, when placing an international call, dial an "End of Dialing" code to indicate selection of either AT&T or a particular voice/record carrier to provide the international switching and transmission facilities.

(2) Two options for the "End of Dialing" code are proposed as follows:

(a) Option 1 would require the use of the *(Star) and #(Square) pushbuttons on the TTMF keypad, as follows:

Carrier	A	*1 #
"	B	*2 #
"	C	*3 #
"	D	*4 #
"	E	*5 #
"	F	*6 #
Spares		*(7-9) #

(b) Option 2 would require the use of the #(Square) pushbutton on the TTMF keypad, as follows:

Carrier	A	1#
"	B	2#
"	C	3#
"	D	4#
"	E	5#
"	F	6#
Spares		(7-9)#

II. Digit Outpulsing Format (Figure 1)

1. Presently, the local office outpulsing format is:

KP + 1 + CC + NN + ST*

RCA Globcom proposes that the local office outpulsing format should be modified to the following:

KP + 1X + CC + NN + ST*

Where X is assigned as follows:

AT&T	1
VRC A	2
" B	3
" C	4
" D	5
" E	6
Spares	7-9

2. "Two Stage Outpulsing" from an Electronic Switching System (ESS) or Traffic Service Position System (TSPS) is presently used to switch the international call to the ISC.

First stage outpulsing is:

KP + 011 + XXX + ST

Where XXX : Country Code

The first stage of outpulsing provides for either a 3 or 6 digit routing code. The 3 digit code uniquely specifies a particular ISC for which the call is destined. The ISC, upon seizure after first stage outpulsing, returns a "wink" signal (minimum duration: 220 MS) and then followed by a high tone (480 Hz). After receiving the wink signal, second stage outpulsing is as follows:

KP + CC/CC' + NN + ST

Where : CC' - Substitute Country Code (if call requires operator assist at ISC)

"Two Stage Outpulsing" as described will be used to switch the international call to a particular voice/record carrier operating office via four-wire facilities. The voice/record carrier will receive the digits and automatically switch the call to the terminating country, using C.C.I.T.T. Signalling System No. 5 or No. 6.

IV. Traffic Terminating in U.S.

The voice/record carrier ISC will process incoming calls destined to points on the AT&T public switched telephone network and will switch these calls to the toll network on a four-wire basis, using C.C.C.I.T.T. Signalling System R1.

V. Trunking Requirements

1. Initially, RCA Globcom will require the following estimated number of trunk circuits to the toll network:

(a) Terminating at New York: 30 Trunks

(b) Terminating at San Francisco: 30 Trunks

2. RCA Globcom projects an annual growth rate of approximately 20-25 percent for international switched voice/data services. Based on this estimate, the following 5-year trunk requirements are projected:

NUMBER OF REQUIRED TRUNK CIRCUITS TO TOLL NETWORK

Year	New York	San Francisco
1977	30	30
1978	40	40
1979	50	50
1980	75	75
1981	100	100

3. The above projections may be revised to more accurately reflect actual needs as the market for international switched voice/data service develops.

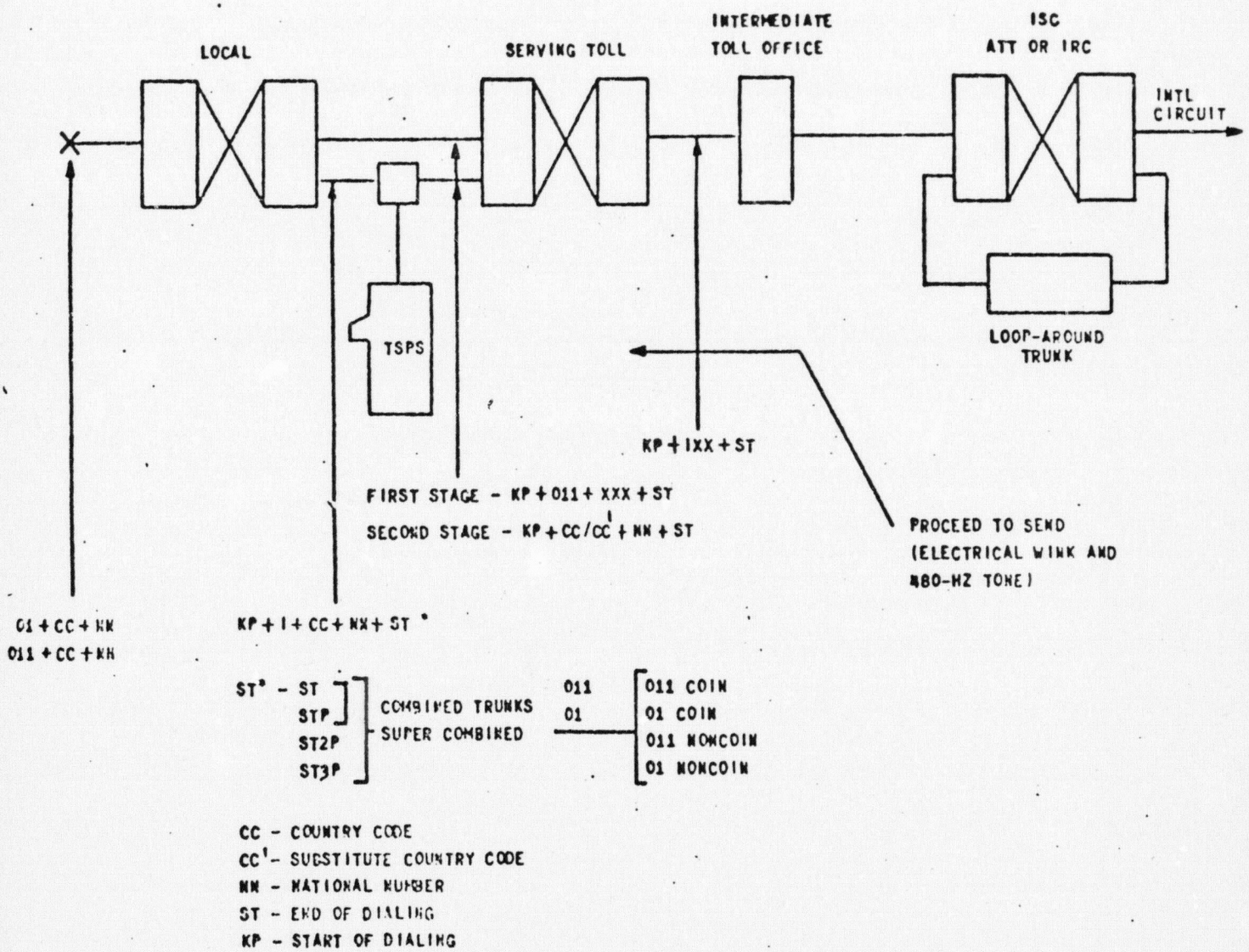


FIGURE 1 *

IDDD 2-STAGE OUTPULSING ESS OR TSPS

REPRINTED FROM
ATT NOTES ON
DISTANCE DIALING

CERTIFICATE OF SERVICE

I, Audrey Gadson, hereby certify that on this 9th day of April, 1976, I mailed a copy of the foregoing "Comments of RCA Global Communications, Inc." by United States mail, postage prepaid, to the following persons:

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FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Inquiry into Policy to be Followed in Future Authorization of Overseas Dataphone Service	)	Docket No. 19558

TRT TELECOMMUNICATIONS CORPORATION
REQUIRED INTERCONNECTION FOR INTERNATIONAL DATAPHONE

TRT Telecommunications Corporation (TRT) hereby submits its comments, pursuant to paragraph 16 of the Commission's Report and Order in this docket, released January 19, 1976 (FCC 76-10) regarding the facilities and interconnections, not presently provided which would be necessary for the proposed international switched data services of the international record carriers (IRC's). In this regard, TRT respectfully states as follows:

In its Report and Order the Commission has found that it is in the public interest to authorize American Telephone and Telegraph Company (AT&T) to provide Dataphone Service between the United States and overseas points. This decision presents a most serious long-run threat to the future viability of TRT and the other IRC's. There can be little question that the future growth of international data transmissions will be in dataphone-type switched services rather than in the telex and leased channel services presently utilized by the public. At paragraph 14 of its Report and Order the Commission recognized this possible threat to the continued viability of the IRC's, but held:

> "If the IRC's cannot effectively compete with dataphone-type uses of MTS, consistent with this Order, and if the service thereby fulfills a public need at cost-justified rates below those which the IRC's can justify for their own service, we shall not impose a protective umbrella to assure the IRC's a portion of the market."

TRT accepts the wisdom of this judgement. TRT seeks no "protective umbrella" from the Commission to assure its continued viability. All that TRT seeks from the Commission is a fair opportunity to compete in the future for a share of the international data transmission market. As the Commission is aware, by its applications and other pleadings filed over the last six years, TRT's goal has been to obtain no more than an equal opportunity to compete with its larger IRC competitors. With the entry of AT&T into the international data transmission field, TRT is presented with an additional, and ultimately, more formidable competitive challenge. TRT accepts this challenge.

In this regard, we note that there is some language in the Commission's Report and Order which may imply that the Commission anticipates that there will be no direct competition between AT&T and the IRC's. For example, at paragraph 12 the Commission stated:

> "Thus we anticipate that AT&T and the IRC's will offer different types of services and that the policy established herein does not promote competition for the sake of competition (cf. RCA Communications, Inc. v. F.C.C., 346 U.S. 86 (1953), Hawaiian Telephone Company v. F.C.C., (D.C. Cir. 1974). We expect, instead, that the different services which will be rendered will meet different public needs."

We respectfully submit that this view reflects an oversimplification of the realities of the marketplace. It is true that TRT, and, we assume, the other IRC's also, are endeavoring to develop switched data transmission services which will provide the public with greater reliability and/or economies in operation than are available from AT&T's DATAPHONE. Obviously, in light of the pervasive presence of AT&T and its vast marketing organization, the

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IRC's could not hope to attract a significant number of customers unless their services were superior in some material respect to DATAPHONE. In this regard, we agree that the IRC's offerings will probably attract a larger percentage of the more sophisticated and demanding users than DATAPHONE.

However, we believe it should be recognized that the IRC's and AT&T will not compete in separate and distinct markets. Users will have the alternative of meeting their international data transmission requirements either by utilizing DATAPHONE or one of the service offerings of the IRC's. A user will choose to route his traffic via an IRC only if he believes that the IRC's service offers him a better combination of price, convenience and reliability in comparison with AT&T's DATAPHONE.

In this regard, the customer in selecting service among the competing AT&T and IRC offerings will, of course, be concerned with the relative quality and reliability of the through service which is provided to him. Since the IRC's will have control over only the international portion of the through service provided to the customer, fair competition between AT&T and the IRC's will not be possible unless interconnection arrangements are provided between the AT&T domestic network and the IRC's comparable to those available with AT&T's overseas MTS. Unless domestic DATAPHONE users are provided interconnection with the international switched data services of the IRC's which are equivalent in convenience and service quality to the international facilities provided by AT&T to its own international services, any superior service features provided by the IRC's may be more than offset in the users' prospective by inferior or less convenient interconnection features.

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Accordingly, we submit that if the IRC's are to be accorded a fair opportunity to compete with AT&T for international switched data transmission services, it is essential that there be complete parity of interconnection between domestic DATAPHONE, on the one hand, and AT&T international dataphone service and the dataphone-type services of the IRC's, on the other hand.

Based on information provided by AT&T to TRT relating to the current interconnection provided for overseas MTS calls, such parity of interconnection would include the following:

For outbound calls (from the U.S.)

1. AT&T must provide access numbers (such as 012) from its domestic MTS network comparable to those utilized for overseas MTS calls, which will permit the IRC's to interface with the domestic MTS network in a manner similar to AT&T's international gateway switching centers for MTS service.

2. Such access must be provided in a manner so that the dialing process in accessing an IRC is no more complex than in making an overseas MTS call.

3. The call to the IRC's network must be routed in the most efficient manner, i.e., it should not take an appreciably longer time to access an IRC than to access an AT&T gateway switch.

4. The facilities used to connect the calling party to the IRC must be equal in quality to that provided to AT&T's gateways and should not include more than one section above the number of sections required to access the AT&T gateway switch.

5. With the advent of domestic satellite facilities, AT&T is establishing procedures and equipment to detect when a domestic call is routed via satellite so that the international segment may be routed over cable rather than satellite facilities in order to

prevent double satellite hops. Procedures should also be established to automatically notify the IRC in a similar fashion of domestic satellite routings.

6. On operator assist calls, AT&T should arrange procedures for the operator to inquire of the calling party:

a) If the call is to be a dataphone call;

b) If yes, whether the calling party wishes to route via AT&T or one of the IRC's;

c) If the calling party selects one of the IRC's, this routing should be honored by the operator.

7. The interface with the IRC's must be at the trunk level and AT&T must provide the IRC's with all technical specifications to enable this, such as signalling criteria, levels, terminal impedance, etc.

8. The IRC must be made privy to division of tolls and billing information to permit proper payout to independent telephone companies, unless AT&T elects to do this for the IRC's.

For inbound calls (to the U.S.)

1. The IRC must be able to pass an inbound call in the same manner as AT&T. Electrical specifications must be provided to the IRC's to permit proper signalling to the AT&T network.

2. AT&T must allow access on a trunk basis to the IRC's for inbound calls; information regarding quality of circuitry, and efficient routing required for such access should be provided to the IRC's.

3. Billing information must be made available to permit IRC's to handle collect calls.

4. Hinterland operator assistance must be made available to the IRC's where necessary to complete calls.

WHEREFORE, TRT respectfully requests that any authorization to AT&T to provide International Dataphone Service be only granted upon condition that AT&T provide interconnection facilities and services to the IRC's, as outlined above, which are not inferior to that provided between the domestic telephone network and AT&T's overseas message telephone service.

Respectfully submitted,

TRT TELECOMMUNICATIONS CORPORATION

BY: _____

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April 9, 1976

CERTIFICATE OF SERVICE

I, Cynthia A. Martell, hereby certify that a copy of the foregoing has been sent this 9th day of April, 1976 to the following by United States mail, postage prepaid:

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April 9, 1976

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Inquiry Into Policy to be Followed in Future Authorization of Overseas Dataphone Service.	)	DOCKET NO. 19558

COMMENTS OF WESTERN UNION INTERNATIONAL, INC.

Western Union International, Inc. (WUI), pursuant to Paragraph 16 of the Commission's Report and Order, Released January 19, 1976 (hereinafter the "Order") hereby submits its Comments in order to bring to the Commission's attention the particular interconnection requirements, and facilities necessary thereto, required by WUI for the provision of its international "dataphone-type services" as contemplated in the Commission's Order.*

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*"Dataphone-type services" as used herein, as well as in the Commission's January 19, 1976 Order, would permit subscribers to the domestic message toll telephone service, who have secured appropriate equipment, to use that telephone service to transmit data, facsimile or record communications alternately with voice at usage sensitive rates between the U.S. and overseas points. WUI submits these comments without prejudice to its rights before the U.S. Court of Appeals, Second Circuit, in Case No. 76-4074, nor to any additional judicial action WUI may seek in connection with the Commission's Order or any further orders by the Commission in this matter.

Background

By Notice of Inquiry of July 31, 1972 (36 F.C.C. 2d 605) the Commission initiated this review into the broad future policies and direction of international dataphone-type service including a determination as to which international carrier or carriers should be authorized to provide such service. Initial Comments and/or Replies were subsequently filed by numerous parties, including WUI.* The Commission took no further formal action in this proceeding until release of its Order on January 19, 1976.

In its Order, the Commission determined:

(a) that the public interest would best be served by competition between and among AT&T and the international record carriers in the provision of dataphone-type services; and

(b) that AT&T must provide proper interconnection with the IRCs.

Obviously, the type of interconnection must be consistent with the Commission's mandate of competition.** Evidently, AT&T does not view it this way.

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* For a complete list of parties filing Comments and/or Replies see Order, footnote No. 4.

** Such interconnection is essential for WUI's planned dataphone-type services which will include, inter alia, some of the innovative features mentioned in the Commission's Order.

By its letters of October 17, 1975 and December 4, 1975, WUI sought to advise the Commission of the past and continuing difficulty which WUI had uniformly encountered in its efforts to upgrade the quality of its own Datel interconnection into the Bell System. While not commenting substantively on WUI's requests for relief in the form of improved interconnection facilities, the Commission's Order did acknowledge WUI's complaint that it had experienced "difficulty obtaining interconnection with AT&T's domestic switched telephone network."* The Commission stated further that

> "[a]lthough we are hopeful that appropriate agreements for interconnection can be reached, pursuant to our policies established for domestic common carriers,* we shall entertain pleadings from the international carriers regarding what facilities and interconnections, not presently provided, are necessary for their proposed services. (Order, paragraph 16.)"

"* Bell System Tariff Offerings, 46 FCC 2d 413 (1974); aff'd sub nom Bell Telephone Co. of Pennsylvania v. FCC. 503 F. 2d 1250 (1974); cert. denied, 43 U.S.L.W. 3654 (1975)."

---

* Order, paragraph 16.

In accordance with the foregoing language of the Commission's Order, representatives of the IRCs* and AT&T attended a series of meetings at which information regarding technical and operational aspects of the AT&T domestic telephone network on the one hand, and particulars of the IRCs' existing facilities on the other hand, were exchanged. At these meetings, the IRC representatives sought to negotiate interconnection. However, AT&T representatives steadfastly maintained that the scope and purpose of the meetings were limited to an exchange of technical information and did not encompass negotiation of the actual connection hoped for by the Commission in its Order.

AT&T's current intransigent posture represents a continuation of its anticompetitive behavior as recounted in WUI's letter of December 4, 1975 to the Commission in this proceeding. That letter, which is incorporated herein by reference, contains copies of correspondence between AT&T and WUI dating back to 1965, in which AT&T variously

---

* The IRCs present at these meetings were:
Western Union International, Inc.;
RCA Global Communications, Inc.;
ITT World Communications Inc.;
TRT Telecommunications Corporation;
French Telegraph Cable Company.

refused any interconnection or merely offered a token interconnection of an individual subscriber nature rather than in the carrier-to-carrier mode. We are dealing here with a giant corporate complex having revenues of nearly $30 billion annually and composed of an infrastructure of nationwide geographically associated companies connected domestically among themselves and with the so-called independent telephone companies, and internationally with overseas administrations, by a Long Lines Department which, pursuant to the Order, will compete with the less advantaged IRCs for international dataphone-type services.

Each of the IRCs is a miniaturized equivalent of the overseas arm of the Long Lines Department, although each is bereft of the associated company infrastructure, which controls access to nearly 150 million domestic telephones, and of the monopoly status of Long Line's overseas arm, which has exclusive access to approximately 200 million telephones overseas. All of these telephones, domestic and overseas, represent the marketing base for dataphone-type services. Unless the IRCs can reach the domestic telephones on a parity with Long Lines, they will be competitively disadvantaged in reaching overseas present and future dataphone users, and the Commission's Order -- which seeks to promote competition in dataphone-type services -- will have been negated.

It is difficult to conceive of a greater handicap to implementation of the Commission's Order than that confronting the IRCs. Fortunately, however, AT&T is not at liberty under the law to deny interconnection or to dole out token interconnection deemed advisable in its self-interest to control the extent of the entry by the IRCs into this market.* The Commission has the authority, in fact the obligation, to control this monolithic communications complex whose domineering presence permeates nearly every aspect of telecommunications.

INTERCONNECTION GUIDELINES

Evidently, AT&T has chosen to read the Commission's Order as not imposing any obligations upon it to provide meaningful interconnection to the IRCs. Obviously, AT&T needs further direction from the Commission.

The Commission is respectfully requested to direct AT&T to conform to the following interconnection guidelines:

1. Technical and Operational Parity. The Commission has specified (Order, para. 16) that AT&T must interconnect with the IRCs in conformity with prior established interconnection policies. These policies

* Our use of the designation, "AT&T", throughout this pleading is intended to include separately and jointly the associated Bell operating companies, and particularly those in whose territory the IRCs have operating offices.

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prohibited the Bell System companies from interconnection with the Long Lines Department under terms and conditions more favorable than those offered to the domestic specialized common carriers. Such interconnection was required to be reasonable and non-discriminatory when measured against interconnection provided between AT&T's affiliated companies. Accordingly, interconnection arrangements between the IRCs and AT&T for the provision of overseas dataphone-type services must reflect the same considerations of equity and non-discrimination. The IRCs must be granted technical and operational parity with Long Lines. Only through such parity of interconnection can the public be assured the benefits of competition in the provision of dataphone-type services envisioned in the Commission's Order.

2. Burden of Establishing Parity of Interconnection Is Upon AT&T. AT&T jealously controls its nation-wide monopoly network and related technical/operational data. For example, many IRC inquiries concerning technical and operational matters essential to a meaningful interconnection arrangement were rebuffed during the recent joint meetings by replies that such matters were "of no concern" to the IRCs, or were

"beyond the scope" of the meetings. The obvious and familiar strategy being employed by AT&T is to present the facade of cooperation; but in reality to raise obstacles in order to delay and discourage -- and ultimately to destroy -- potential competitors.

The Commission cannot permit AT&T to negate the interconnection mandate in this case by refusing to disclose essential technical/operational data or by placing an impossible burden upon potential competitors seeking interconnection. Otherwise, there will be no interconnection or potential competitors will be guiled into thinking they have meaningful interconnection only to be ultimately shaken by the lack thereof (as was Conrail recently when it discovered a few miles of missing trackage in the midwest necessitating a lengthy detour by bus for rail passengers between the East Coast and Chicago). Accordingly, neither the Commission nor the IRCs should be constrained within the parameters of the specific means of customer access, transmission paths, and billing/financial arrangements outlined below. These specific needs are being submitted by WUI for purposes of illustration and should not be deemed to be all-inclusive.

3. AT&T Must Conduct Meaningful Negotiations With The IRCs. The Commission should direct AT&T to enter into meaningful interconnection negotiations, with no competitive benefits to accrue to AT&T as a result of any delay or non-disclosure. The only effective way for the Commission to deal with AT&T's obvious tactic of conducting interminable and non-productive interconnection negotiations is to put AT&T on notice that no applications by AT&T to provide overseas dataphone-type services will be considered until meaningful interconnection agreements have been concluded with the IRCs in conformity with the interconnection guidelines set forth herein.

ILLUSTRATED SPECIFIC INTERCONNECTION REQUIREMENTS

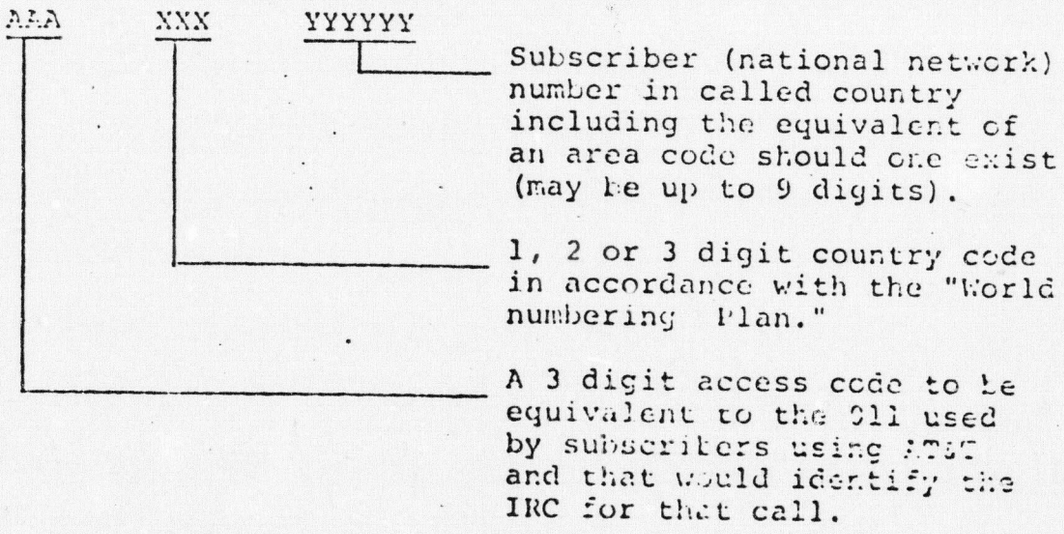
Adoption of the above guidelines is essential if the IRCs are to obtain the parity of interconnection that will realize the Commission's objective of competition in the provision of dataphone-type services. Such guidelines will compel AT&T to provide the detailed technical and operational information necessary for the IRCs to ascertain and implement an interconnection no less favorable than that accorded AT&T's Long Lines

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Department. Absent that detailed information at this time, WUI is not in a position to state with absolute technical precision the totality of its interconnection requirements. Accordingly, the following interconnection requirements represent only a partial list and are submitted with the understanding that information obtained subsequently from AT&T may necessitate additional or revised requirements.

A. Customer Access

A telephone subscriber wishing to place a call via WUI should not be required to dial any more digits than he does when he calls via AT&T. Therefore the subscriber should be enabled to dial



The foregoing control signalling access plan requires that the appropriate AT&T exchange or switching office pass to the WUI exchange all customer dialed information after the designated WUI access code or prefix.

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Additionally, calls handled manually by AT&T operators should have equal access, upon customer request, to all carriers providing international dataphone-type service. This mode of handling is facilitated by the fact that all calls to AT&T operator positions are essentially unrouted.

B. Transmission Path

The major interconnection requirements related to the transmission path for overseas dataphone-type calls are as follows:

1. There shall be a 4-wire transmission path interconnection into the AT&T MTS network at a Bell System 4-wire switching exchange. Such a plan will ensure the existence of a through transmission whereby the conversion from the basic 2-wire telephone subscriber line to the basic 4-wire long distance network will occur only once -- and will remain at 4-wire until the overseas network brings it down to 2-wire at the overseas subscriber's line. The foregoing configuration will help to alleviate the existing serious impairment in transmission quality on WUI's existing switched data service caused by excessive conversions between 2-wire and 4-wire transmission facilities and will enable WUI's switched data system to "see" the AT&T domestic network as that network is "seen" by an AT&T international gateway switching exchange.

2. The number of transmission sections (circuits between AT&T exchanges) required for a domestic subscriber to reach WUI (or vice versa) shall be equivalent to the number of sections required by a subscriber to reach an international transit exchange serving the AT&T system.

3. WUI will initially require the physical interconnection between its own switched data exchange and the AT&T domestic telephone network to be made at WUI's exchange in New York City. Of course, as the service develops and grows, WUI may require interconnection at other points within the AT&T domestic telephone network. Such interconnection would be data quality voice-grade circuits with AT&T and WUI providing compatible inband signalling equipment at their respective locations. In addition, split echo suppressors, with disablers, should be configured throughout the AT&T network so as to provide the same enhancement in transmission to WUI's switched data services as is provided to AT&T's dataphone-type service.

C. Financial and Billing Arrangements

1. AT&T and WUI must establish financial arrangements no less favorable to WUI than the arrangements between AT&T's Long Lines Department and the independent telephone

companies for international calls. Considerations of competition, equity and non-discrimination dictate that, in any event, such arrangements not be based upon two discrete charges to the subscriber, specifically (i) the cost of reaching WUI and (ii) the cost of the international portion. Total charges for a WUI dataphone-type call to a given overseas location from any place in the United States should be uniform and should be divided in accordance with a reasonable formula to be agreed upon by WUI and AT&T. Consideration can be given, for example, to a carrier-to-carrier arrangement similar to that formerly prevailing with respect to TWX calls interconnected to the IRCs' overseas telex networks, involving a cost-related carrier discount.

2. AT&T should provide subscriber identification on outbound calls by forward pulsing of the subscriber's telephone number to the WUI exchange, or such comparable arrangements satisfactory to WUI.

3. Billing information generated on calls via WUI must be kept confidential from AT&T's sales or marketing force.

CONCLUSION

WUI's long history of frustration in its efforts to secure any improvement in its present Datel interconnection, as fully documented in this case, provides ample proof that AT&T will not move in the desired direction without firm Commission action. Even with such action, AT&T has demonstrated its reluctance to provide the type of reasonable and non-discriminatory access requested herein -- witness its long record of delay and obfuscation with respect to the domestic specialized carriers (Docket No. 19896).

WUI stands ready to engage and resolve, with AT&T and the Commission Staff, any legitimate questions of a technical or operation nature relating to interconnection. In no event, however, should the Commission allow AT&T to immerse the IRCs' legitimate interconnection requests in a technical tar pit of AT&T's own making while it, and it alone, proceeds to provide dataphone-type services overseas.

WHEREFORE, the Commission is respectfully requested to:

(A) Order interconnection between AT&T's domestic telephone network and WUI's overseas switched data services to be implemented promptly in accordance with the foregoing guidelines;

(B) Order the prompt commencement of WUI/AT&T interconnection negotiations, under Commission aegis; and

(C) Neither consider nor process any applications by AT&T to provide its dataphone-type services overseas until completion of reasonable and non-discriminatory interconnection and access agreements with the IRCs granting them technical and operation parity with the Long Lines Department.

Respectfully submitted,

WESTERN UNION INTERNATIONAL, INC.

By: Robert Michelson
Attorney

One WUI Plaza
New York, New York 10004

April 9, 1976

CERTIFICATE OF SERVICE

I, Mary Chin, do hereby certify that on this 9th day of April, 1976, I mailed a copy of the "Comments" of Western Union International, Inc. by United States mail, postage prepaid, to the following:

American Telephone & Telegraph Company
32 Avenue of the Americas, Room 2510
New York, New York 10013
Attn: Alfred G. Walton, Esq.

ITT World Communications Inc.
67 Broad Street
New York, New York 10004
Attn: Joseph J. Jacobs, Esq.

The French Telegraph Cable Company
25 Broad Street
New York, New York 10004
Attn: Mr. J. A. Berenger, Manager

RCA Global Communications, Inc.
60 Broad Street
New York, New York 10004
Attn: Francis J. DeRosa, Esq.

TRT Telecommunications Corp.
1747 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
Attn: Roderick A. Mette, Esq.

/s/ Mary Chin

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

In the Matter of	)	
	)	
Inquiry Into Policy to be Followed in Future Authorization of Overseas DATAPHONE Service	)	Docket No. 19558

REPLY

American Telephone and Telegraph Company (AT&T), pursuant to Paragraph 16 of the Commission's Report and Order released on January 19, 1976 (FCC 76-10), hereby submits its Reply to the Comments of the international record carriers (IRCs)*:

1. The Commission's January 19, 1976 Order found that it would be in the public interest for AT&T to permit its customers to use Overseas Message Telecommunications Service (MTS) for DATAPHONE** transmission. It also found that the public interest would be served if the IRCs were to expand their overseas switched data services, to include such specialized features as code conversion, multi-address and camp-on capabilities, overseas conditioned channels, deferred data mode, speed conversion "and other individual features that AT&T has not proposed

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* The IRCs filing comments were ITT World Communications Inc. (ITT), TRT Telecommunications Corporation (TRT), RCA Global Communications, Inc. (RCA) and Western Union International, Inc. (WUI).

** Registered service mark of the AT&T Company.

to offer".* It emphasized that AT&T and the IRCs would afford substantially different services - different in terms of the capabilities of the service and different in terms of access to the WTS network. It afforded the IRCs the opportunity to state what "facilities and interconnections, not presently provided" were necessary for them to provide their specialized services and expressed the hope that AT&T and the IRCs could reach mutually satisfactory interconnection arrangements for the IRCs' proposed services "pursuant to our policies established for domestic carriers".**

2. Pursuant to the Commission's suggestion, AT&T called a meeting to elicit the views of the IRCs with regard to what facilities and interconnections, not presently provided, were necessary to permit them to provide their proposed specialized data services. It readily became apparent at that meeting - and at technical committee meetings which ensued - that the IRCs were not interested merely in additional interconnection arrangements. Rather, they have advanced demands for the integration of their facilities into the overseas WTS network. Thus, their "interconnection" proposals are not that at all; they are proposals that AT&T completely restructure the WTS

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* January 19, 1976 Order, paras. 6 & 12.

** Id., para. 16, p. 8.

network to enable the IRC's to enter into the overseas telephone business. As such, they are completely unresponsive to the Commission's invitation to state "interconnection" requirements for their expanded data services and afford no basis for revised interconnection arrangements.

3. As stated in their Comments, the IRCs demand for total operational and financial "parity" with AT&T's DATAPHONE service indicates an intent to provide the same, and not a different, service as contemplated by the Commission's Order. Although the IRCs fail to define the phrase "total operational and financial parity", their respective pleadings reveal the following demands: Connection over four-wire facilities through a four-wire switch; dialing code arrangements which would automatically and selectively access either AT&T's service or the IRCs' specialized services using the same number of digits; operator procedures that would determine which carrier the calling party desired to use or, where the customer does not designate the carrier, distribution based upon a mutually agreed allocation formula; selective routing of data calls so that the transmission parameters are equal for all of the carriers; division of revenues

for network usage; identical testing and billing arrangements*; and equal consideration of the IRCs' future requirements for system planning of AT&T's facilities. Finally, they want freedom to use their systems for voice purposes. In other words, they want to become an integral part of the overseas MTS network.

4. Nothing in the Commission's Order justifies or supports the IRCs' demand for "operational and financial parity". On the contrary, the Commission's Order often noted that there would be substantial differences between the IRCs' offerings and AT&T's overseas DATAPHONE service.** The IRC's would offer specialized services - essentially an expansion of their present DATEL and similar services - tailored to individual customer requirements whereas AT&T's

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* WUI has requested that billing information handled by AT&T for the IRC's be kept confidential from AT&T's sales or market force (WUI Comments, p. 13) and yet RCA has demanded that AT&T divulge AT&T customer information such as name and address, telephone number, type, model and speed of data modem, etc. (RCA Comments, p. 10).

** "[T]here are substantial differences between the dataphone-type services proposed by AT&T and those services proposed by the IRCs." January 19, 1976 Order, para. 6. "[W]e anticipate that AT&T and the IRCs will offer different types of services." Ibid, para. 12. "[T]he record of the present inquiry clearly indicates an existing or latent public demand for both the type of service which AT&T proposes and the more specialized services outlined by the IRCs." Ibid., para. 15.

DATAPHONE service would accommodate the needs of occasional users who had no requirement for the specialized features proposed by the IRCs and who found the capabilities of the MTS network suitable for their purposes.* The Commission's Order was mindful that "users of AT&T's proposed service would access its MTS network more easily than the IRCs' systems",** but, on the other hand, that the IRCs' proposed services would have greater capabilities than AT&T's services. In short, the Order did not contemplate operational and financial parity, but rather that AT&T and the IRCs would offer different services meeting different customer requirements. This, in the Commission's view, would serve the public interest, convenience and necessity.

5. The "interconnection" demands of the IRCs are not founded upon that which is necessary for their proposed specialized services but rather what is in their view necessary to compete with AT&T. However, the Commission has already rejected this position by stating:

> ". . . [O]ur statutory mandate is to regulate telecommunications such that the public receives high quality service at the lowest cost. If the IRCs cannot effectively compete with dataphone-type users of MTS, consistent with this Order, and if the service thereby fulfills a public need at cost-justified rates below those which the IRCs can justify for their own service, we shall not impose a protective umbrella to assure the IRCs a portion of the market."***

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* January 19, 1976 Order, paras. 6 & 13

** Id., para. 8.

*** Id., para. 14.

6. Finally, the IRCs argue that the Commission should not act upon any Section 214 Application AT&T may file until it has first granted their "interconnection" demands. There is no merit to this position. The Commission, after extensive consideration of this matter over a four-year period, has found that:

> ". . . the overriding consideration in this inquiry is in meeting an unmet need by giving the added flexibility to the customer to use the international switched message telephone system for both voice and data, similar to their authorized use of the domestic telephone network."*

As heretofore noted, the IRCs' "interconnection" demands go far beyond what the Commission had in mind. Any Commission delay in processing AT&T's Section 214 Application in order to consider such demands would unreasonably and indefinitely deprive the telephone using public of the right to make a reasonable use of their telephone service. The IRCs should not be permitted to delay the availability of overseas DATAPHONE service - found by the Commission to be in the public interest - through the device of unjustified and unreasonable interconnection demands.

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* Id., para. 10.

8. AT&T stands ready to afford the IRCs interconnection "pursuant to [the Commission's] policies established for domestic common carriers". Moreover, AT&T is fully prepared to engage in meaningful discussions looking toward an interconnection agreement in conformance with the Commission's Order. However, it is not prepared to discuss any proposal which contemplates integrating the IRCs' facilities into the overseas MTS network.

9. In conclusion, the IRCs have failed to state what facilities and interconnection, not presently provided, they need to provide for their expanded switched data services. Instead, they offered sweeping plans for integration of IRC facilities into the MTS network. AT&T is willing to afford interconnection in conformity with the Commission's previous policies; it is not prepared to discuss any "parity" demand. Finally, the IRCs have not shown good cause for deferring action on AT&T's Section 214 Application until their unreasonable "interconnection" demands are met and, accordingly, AT&T

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should be authorized forthwith to offer overseas DATAPHONE service.

Respectfully submitted,

AMERICAN TELEPHONE AND TELEGRAPH COMPANY

By /s/ Edgar Mayfield
Edgar Mayfield

By /s/ Alfred G. Walton
Alfred G. Walton

By /s/ Randall B. Lowe
Randall B. Lowe

Its Attorneys

32 Avenue of the Americas
New York, N. Y. 10013

Dated: April 26, 1976

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Western Union International, Inc.
ONE WUI PLAZA · New York, N.Y. 10004

ROBERT MICHELSON
Attorney

Telephone: (212) 363-5812

June 15, 1976

Mr. Walter R. Hinchman, Chief
Common Carrier Bureau
Federal Communications Commission
Washington, D.C. 20554

Re: Docket No. 19558
International Dataphone-Type Service

Dear Mr. Hinchman:

On April 26, 1976 American Telephone and Telegraph Company (AT&T) filed a "Reply" to the comments of the international record carriers (IRCs), including Western Union International, Inc. (WUI), pursuant to paragraph 16 of the Commission's Report and Order ("Order") released on January 19, 1976 (FCC 76-10) in the above-referenced inquiry into the provision of overseas dataphone-type services.* Rather than respond substantively to the specific interconnection requirements posed by the IRCs, AT&T has chosen to "stonewall" the entire interconnection issue by mischaracterizing the legitimate IRC proposals as an effort to "completely restructure the MTS network to enable the IRC's to enter into the overseas telephone business".** Because AT&T has apparently based its refusal to interconnect upon a self-serving, illogical and contorted interpretation of the Commission's intent, as expressed in the Order, WUI feels constrained to respond in order to correct any misunderstanding that may have been created by AT&T's Reply.

Implicit in AT&T's Reply is the view that the Order should be construed as contemplating a "competitive" overseas dataphone-type environment wherein:

(1) AT&T's services are free of restrictions on the use of data, and

(2) the IRCs are forced to retain their existing restrictions on the use of voice.

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*The IRCs filing comments were WUI, ITT World Communications Inc., RCA Global Communications, Inc., and TRT Telecommunications, Inc.

**AT&T Reply, ¶2.

WUI finds AT&T's inequitable, unsupportable view of the proposed competitive marketplace for overseas dataphone-type service nothing short of incredible. After more than a decade of effort by WUI before this Commission to bring to its Datel customers the benefits of an easily accessed, high quality switched alternate voice-data offering, it is inconceivable that the Commission would determine to retain the existing arbitrary restrictions for WUI's customers while freeing AT&T's service offering from restrictions. Such a determination would be all the more unfathomable, indeed unjustifiable, in light of AT&T's long history of adamant, imperious and self-serving refusal to provide improved interconnection facilities to WUI despite repeated requests during the past decade.*

While the Commission's Order quite properly required AT&T to establish interconnection arrangements "pursuant to our policies established for domestic common carriers"** WUI submits that, as a full service international record carrier (including the provision of essential public message and switched record services), it has historically enjoyed well-established interconnection rights into various domestic networks, including those of AT&T and The Western Union Telegraph Company, in order to provide WUI's full range of authorized services. The interconnection facilities now sought by WUI are consistent with such long-established operational relationships between WUI, as a full service international carrier, and the various appropriate domestic networks.

Indeed, the Commission itself has recognized the essential nature of the services provided by WUI and other international carriers. Expressing its concern that the

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*WUI's long and frustrating history of attempting to obtain improved interconnection facilities from AT&T, its associated Bell System companies, and even independent telephone companies, has been documented in this docket in letters from WUI to the Commission, dated October 17, 1975 and December 4, 1975. A copy of each letter is attached hereto for your information and convenience.

**Order, ¶16.

international record operations of RCA Global Communications, Inc. not be jeopardized by commingling with new domestic satellite operations, the Commission stated:

> "RCA Globcom is one of the principal international carriers furnishing worldwide communications services which are essential to the national interests of the United States. It is vital to the public interest that RCA Globcom's capacity to continue in this role not be significantly impaired..." [42 F.C.C. 2d 774, 781 (1973) emphasis added].

Unfortunately, despite (i) the essential nature of WUI's authorized services, (ii) the clear Commission directive for adequate interconnection set forth in the Order, and (iii) prior Commission directives that domestic networks fully interconnect with international carriers,* AT&T has attempted to usurp the Commission's function as regulator by arbitrarily declaring that the IRCs are not authorized to compete with AT&T in the overseas switched voice/data business.

WUI submits that AT&T's assumed regulatory role must be summarily rejected; that its contorted interpretation of the services to be provided by the IRCs pursuant to the Order is an incredible construction of self-serving transparency; and that such an arbitrary restriction on the use of voice alternately with data by the IRCs' customers would run directly contrary to Chairman Wiley's recently stated view that the Commission's goal is to "permit true competition and not market allocation."** WUI seeks the ability to compete for dataphone-type services free from arbitrarily imposed restraints such as those which AT&T, in its Reply, would place upon the IRCs. With its hegemony over the vast U.S. telephone network, both domestic and international, AT&T does not need the further advantage of arbitrary handicaps upon the IRCs.

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*See, for example, letter dated September 1, 1971 from Chief, Common Carrier Bureau to Hawaiian Telephone Company, copy attached.

**Address to International Communications Association, May 3, 1976.

AT&T's absolute refusal to entertain substantive discussions regarding interconnection with the IRCs for their overseas dataphone-type services is mirrored by the attitude of its Bell System affiliate, New York Telephone Company (NYTelCo), which has by letter of April 21, 1976 (copy attached) rejected WUI's efforts to initiate interconnection discussions. This "brush-off" is legally unsupportable since NYTelCo has a fundamental obligation to interconnect with WUI on the same basis as with AT&T's overseas arm. Under AT&T's dominance, the domestic telephone industry -- including the associated Bell companies and the so-called "independents" -- appears determined to exclude WUI from competing with AT&T's overseas arm for international dataphone-type services.

Accordingly, for the reasons hereinabove set forth as well as those contained in WUI's "Comments" of April 9, 1976 herein, WUI again urges the Commission: (i) to order the prompt commencement of WUI/AT&T interconnection negotiations, under Commission aegis, so as to enable WUI to effectively provide its overseas dataphone-type services; and (ii) to neither consider nor process any AT&T application to provide its overseas dataphone-type service until successful completion of the interconnection and access arrangements required by WUI.

Respectfully submitted,

Robert Michelsen

Attachments (4)

cc: American Telephone & Telegraph Company
New York Telephone Company
The French Telegraph Cable Company
ITT World Communications Inc.
RCA Global Communications, Inc.
TRT Telecommunications Corporation

Western Union International, Inc.
ONE WUI PLAZA · New York, N.Y. 10004

ROBERT E. CONN
Executive Vice President

Telephone: (212) 363-6404

October 17, 1975

Honorable Richard E. Wiley
Chairman
Federal Communications Commission
Washington, D.C. 20554

Re: International Datel/Dataphone
Dial-up Service Inquiry
Docket No. 19558

Dear Mr. Wiley:

The Commission's calendar for October indicates that the Commission is scheduled to review the above-referenced 1972 inquiry to determine, among other issues, whether American Telephone & Telegraph Company (AT&T) should be authorized to provide a data/voice dial-up (demand) service to foreign overseas points. The ultimate resolution of that issue involves the same public interest considerations that formed the basis of the Commission's policy to preclude AT&T from entering the market for international record communications services. TAT-4 Decision 37 F.C.C. 1151 (1964). That policy was premised on the Commission's concern that AT&T's entry into the international record field would jeopardize the continuation of a viable competitive international record carrier industry. The wisdom of that policy has been demonstrated by over 10 years of competitive progress in data/voice private line service, with service provided at ever higher technical standards and at declining rates.*

This inquiry was instituted more than 3 years ago on July 26, 1972. 36 F.C.C. 2d 605. The purpose of this letter is to bring to the Commission's attention, certain developments that have occurred subsequent to early 1973 when comments were last filed in this inquiry--developments which further substantiate WUI's position that AT&T should not be granted the authorization it seeks to enter the overseas market for data/voice communications services.

*All cognizant Government Agencies, including this Commission, OTP, Justice, State and D.O.D., reaffirmed this TAT-4 policy and urged that it be applied to overseas demand data/voice service. Report of the Intragovernmental Committee on International Telecommunications, April 29, 1966, pp. 24-25 & 28.

Since the end of the pleading stage in this docket 2-1/2 years ago, WUI has made repeated efforts to establish arrangements for the appropriate interconnection of its own authorized datel facilities into the domestic telephone network of the Bell System. Such carrier-to-carrier interconnection would have enabled WUI to demonstrate that existing datel service, when so interconnected, can effectively meet present and future requirements for switched international data/voice demand service.* It would also have demonstrated that there is no need or justification for the Commission to authorize AT&T to provide such service and to thereby vitiate its established policy to prevent AT&T from permeating every growing communications market to the exclusion of effective competition.

However, despite WUI's repeated efforts to obtain adequate interconnection with the domestic telephone network, AT&T and its Bell System "partners" have engaged in concerted action to deny such arrangements to WUI. Moreover, even non-Bell (the so-called "independents") operating companies, although cooperative when first approached by WUI, have denied us interconnection after reviewing the matter. The refusal of Bell and the "independents" to provide adequate interconnection with WUI's authorized datel facilities is a flagrant and indefensible abuse of monopoly power. Otter-Tail Power Co. v. United States, 410 U.S. 366 (1973). AT&T should not be accorded preferential status by virtue of its affiliation with other operating companies of the Bell System. Accordingly, the Commission should take whatever steps are necessary and appropriate to assure that the Bell System operating companies provide the international record carriers interconnection into the domestic telephone network under terms and conditions no less favorable than those available to AT&T's Long Lines Department.

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*Along with meaningful interconnection, WUI has repeatedly urged the Commission to modify existing record carrier authorizations to permit unrestricted voice communications (in lieu of the undue restriction of voice for coordination of data only) combined with data and facsimile transmissions in order to transform datel into the international data/voice demand service which is the subject of Docket No. 19558. WUI's regulatory endeavors in this regard since 1965 are recounted in our filings in this Docket.

It was precisely such anti-competitive and obstructionist behavior by the Bell System that was properly condemned by the Commission in Docket Nos. 19896 and 20099 regarding the domestic specialized carrier sector. In addition, the Commission took steps in its Domestic Satellite Inquiry (Docket No. 16495) to prevent AT&T from thwarting the development of a competitive marketplace for commercial private line services by restricting AT&T's use of its satellite system to its monopoly service for a minimum period of three years. WUI submits that similar forceful Commission action is warranted herein if the overseas data/voice demand marketplace is to be spared from becoming another Bell preserve.*

In addition to AT&T's refusal to provide adequate interconnection for datel, the very real threat posed by AT&T to competition in the international data communications field has been amply demonstrated during the past two years by AT&T-influenced activities in certain study groups of C.C.I.T.T. looking toward development of a future international integrated digital data/voice switched network predicated upon technical and operational parameters compatible with domestic Bell System design, to the practical exclusion of potential competition from the international record carriers.

It is WUI's position that it should be afforded a reasonable opportunity to demonstrate fully its capability to serve public requirements for overseas voice/data demand service;** that until now WUI has been denied this opportunity

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*Recent institution of massive anti-trust litigation by the U.S. Department of Justice directed against the Bell System cites instances of abuse of monopoly power as well as self-serving and anti-competitive practices not dissimilar to those cited hereinabove with respect to WUI's unsuccessful efforts to interconnect with the domestic telephone network.

**WUI would propose to provide efficient, economical overseas data/voice demand service by means of dedicated bundles of uniformly conditioned circuits such as expressly reserved for that purpose by a joint British Post Office/WUI resolution adopted at the Transatlantic Cable Conference concerning TAT-6 and CANTAT-II held at Eastbourne, England.

by the arbitrary refusal of AT&T to provide the required interconnection for datel access to the domestic telephone network; and that the Commission should take no action to permit AT&T entry into the foreign overseas voice/data demand market until it has been demonstrated that such entry is necessary in order to satisfy user requirements that cannot be met by the international record carriers.

To this end, WUI requests the Commission to institute appropriate discussions, under Commission aegis, among all interested carriers in order to effect the necessary interconnection and access arrangements between the domestic telephone network and the international record carriers. Such immediate action, coupled with liberalization of the usage of oral dialogue in WUI's existing datel service as noted above, should be implemented on no less than a three-year experimental basis, in order to demonstrate that the international data/voice demand market can be fully satisfied by existing international record carriers without the inevitable competitive trauma that would be caused by the entry of AT&T into this marketplace.

Very truly yours,

Robert E. Conn

cc:All Commissioners

Chief, Common Carrier Bureau

American Telephone & Telegraph Co.
ITT World Communications Inc.
RCA Global Communications, Inc.
TRT Telecommunications Corp.
U.S. Department of Justice
Anti-Trust Division

Western Union International, Inc.
ONE WUI PLAZA · New York, N.Y. 10004

ROBERT E. CONN
Executive Vice President

Telephone: (212) 363-8404

December 4, 1975

Honorable Richard E. Wiley
Chairman
Federal Communications Commission
Washington, D.C. 20554

RE: International Datel/Dataphone
Dial-up Service Inquiry
Docket No. 19558

Dear Chairman Wiley:

By our letter of October 17, 1975, Western Union International, Inc. (WUI) brought to your attention certain relevant anticompetitive conduct by the American Telephone & Telegraph Company (A.T.&T.) and its associated Bell System companies subsequent to the institution of the referenced inquiry of July 26, 1972, concerning data/voice dial-up (demand) service to foreign overseas points.

In its reply letter of November 18, 1975, addressed to you, A.T.&T.: (a) denied such anticompetitive conduct; (b) accused WUI of evincing a long-delayed and transparent interest in providing this demand service only because of a possible imminent adverse Commission decision; and (c) sought to derogate WUI's position by enshrouding it in the familiar rhetoric of "protectionism" and "market cartelization" which is currently in vogue among Bell System advocates.

It is essential to the Commission's deliberations in Docket No. 19558 that all relevant facts are exposed for its consideration, particularly those that have unfolded since the end of this Docket's pleading stage -- 2-1/2 years ago. WUI will briefly document a decade of relevant anticompetitive conduct by A.T.&T. designed to delay this overseas data/voice demand service until A.T.&T. has positioned itself into a strategically dominant position.

On June 15, 1965, in an application to the Commission, WUI first called for interconnection of its overseas datel service with A.T.&T.'s domestic dataphone service (F.C.C. File No. T-C-1896). In its reply comments to the Commission of June 21, 1965, A.T.&T. contended that the interconnection issue was not yet ripe for Commission decision and professed a lack of understanding of the type of interconnection being sought by WUI. This was followed by a series of correspondence between WUI and A.T.&T. consisting of four letters, copies of which are attached hereto for your convenience as Attachments A-1, A-2, B and C. WUI's letter of November 15, 1965 (Attachment A-2) adverted to the then existing antiquated method of "interconnection" whereby WUI was forced to manually intercept calls originating from domestic dataphone callers, and relay incoming perforated tape to an outgoing overseas circuit; and requested "direct" interconnection. By its reply letter of January 6, 1966 (Attachment B), A.T.&T. stated that such "direct connection...would be a radical departure from the existing pattern of international communications and one which we are not persuaded is required by the public interest at this time." (Emphasis Added).

During subsequent years, WUI reiterated its position before the Commission including, for example, its statements supporting institution of overseas data/voice demand service in Docket No. 18875 (Transcript of Informal Conference On Transatlantic Communications, June 17, 1971, pp. 31-34). Also, in its application of July 14, 1972 for authority to provide overseas data/voice demand service, WUI again called for reasonable and non-discriminatory interconnection by A.T.&T.

On July 26, 1972, The Commission adopted its Notice of Inquiry in this Docket (36 F.C.C. 2d 605). It is not coincidental that only one month later, by letter of August 31, 1972, A.T.&T. offered to provide WUI with a "direct electrical connection" between its domestic network and WUI's overseas datel service (Attachment C). Such a gesture provided A.T.&T. with the facade of a justification for its comments of January 11, 1973 in Docket No. 19558 that it should be permitted to enter into overseas dataphone service in exchange for providing interconnection privileges to WUI. While this type of interconnection might have temporarily sufficed

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in 1965 when first requested by WUI, by 1972-3 it was just as antiquated as the above-described 1965 vintage.

This so-called "direct electrical connection" merely joined WUI's facilities to the domestic telephone network via two-wire data access arrangements similar to that obtainable by any individual telephone subscriber. Such interconnection is obviously not acceptable for a common carrier and is grossly inferior to the type of interconnection between the Bell System associated companies and the independent telephone companies on the one hand, and A.T.&T.'s Long Lines Department, on the other hand.

During the last three years, covering the period subsequent to the institution of Docket No. 19558, WUI has been continuously rebuffed by the Bell System and its affiliated and nonaffiliated operating company partners, in WUI's quest for four-wire trunk interconnection into a tandem telephone switching exchange. This type of interconnection is essential to enable WUI to provide high quality automatic service, improve customer dial access, and capture necessary customer billing information. Pursuant to this objective, WUI engaged in a series of correspondence with the New York Telephone Company, which is attached hereto for your convenience as Attachments D, E, and F. On January 29, 1973, WUI wrote to New York Telephone indicating that a lack of automatic interconnection was deterring the development of datel service and requesting:

> "...[Y]our agreement to permit telephone subscribers located within the State of New York to automatically interconnect with the overseas facilities of WUI in order that WUI will be in a position to furnish the public within the State of New York an international 'dataphone' type of service." (Attachment D).

By reply letter of February 23, 1973, New York Telephone concluded that WUI's request was "premature" because of the pending F.C.C. Docket Nos. 19558 and 19660 (Attachment E). WUI responded on February 27, 1973, in part, as follows:

> "It is not within the prerogative of your company to avoid responding substantively to WUI's reasonable requests on the grounds of the pendency of certain proceedings before the Federal Communications Commission. That Commission, not New York Telephone Company, will determine the applicability of its proceedings, policies and rules to the overseas services offered by WUI." (Attachment F)

Again, by letter of June 4, 1974, WUI requested of A.T.&T. a carrier-to-carrier-type, rather than an individual subscriber-type, interconnection for its datel service with A.T.&T.'s "message network in the same manner as any class 5 central office of an independent telephone company might connect to an A.T.&T. toll office." (Attachment G). Once again WUI's request was rebuffed. In its reply letter of June 27, 1974, A.T.&T. admitted that it was treating WUI merely "as a customer" rather than as a connecting carrier; and sought to distinguish WUI from independent telephone companies on the grounds that the latter "are partners in a joint undertaking", whereas WUI is not. (Attachment H).

Finally, WUI has also been rebuffed by the so-called independent "partners" of the Bell System, even though they appeared cooperative when first approached by WUI for a carrier-to-carrier interconnection agreement for overseas datel service. For example, by letter of December 12, 1974, General Telephone of Florida declined our interconnection request and referred us back to the New York Telephone Company (Attachment I).

The foregoing summary convincingly rebuts A.T.&T.'s current allegations in its letter of November 18, 1975 to you, that: (a) A.T.&T. has not conducted itself in an anti-competitive fashion; (b) WUI is a late entrant into the matter of overseas data/voice demand service; and (c) WUI is guilty of, in Bell's current vocabulary, "protectionism" and "market cartelization".

The foregoing history demonstrates the accuracy of WUI's prediction of August 27, 1965:

> "Based on past history, AT&T would withhold complete and unrestricted interconnection of its domestic services with international services of other carriers, until AT&T was ready to exploit those same international services with offerings of its own. Then to palliate the adverse consequences of the inevitable dominion by it over these international services, AT&T would offer interconnection to the other carriers." (WUI responsive pleading concerning its 1965 application for interconnected datel/dataphone service, File Nos. P-C-6019, T-C-1896).

In view of a decade of anticompetitive behavior by A.T.&T. through its control of the domestic message telephone network, A.T.&T. must not be permitted to obtain any benefits in Docket No. 19518 from its misbehavior either through an authorization exclusively to provide dataphone service to foreign overseas points or to provide the service in competition with WUI and the other international record carriers. Consequently, WUI reaffirms its position as set forth in its letter of October 17, 1975 that WUI's proposed interconnected datel overseas service provides a viable alternative to unleashing A.T.&T. into an overwhelming position in still another telecommunications market.

Very truly yours,

Robert E. Conn

Robert E. Conn

Attachments

cc: All Commissioners
Chief, Common Carrier Bureau

American Telephone & Telegraph Co.
ITT World Communications Inc.
RCA Global Communications, Inc.
TRT Telecommunications Corp.
U.S. Department of Justice
Anti-Trust Division

ATTACHMENT A-1

RETYPED COPY

WESTERN UNION INTERNATIONAL, INC.

August 27, 1965

Mr. Harold M. Botkin
Assistant Vice President
International Services
American Telephone & Telegraph Co.
32 Avenue of the Americas
New York, New York 10013

Dear Mr. Botkin:

Enclosed is a copy of a "Response" filed today with the Federal Communications Commission in support of WUI's position that it should be authorized to provide via satellite channels alternate data-voice message services, with complete and unrestricted interconnection with the domestic telephone network.

AT&T in its "Reply" of June 21, 1965, indicated that it "is not clear" from WUI's prior filing with the Commission "just what type of interconnection arrangement WUI proposes." It is hoped that the enclosed "Response" clarifies this matter.

AT&T is respectfully requested to agree to interconnect, on equitable and nondiscriminatory terms, its domestic telephone facilities with the facilities of WUI in order that the benefits of WUI's present (datel and datatelex) and proposed international alternate data-voice message services might be extended to the greatest number of subscribers in the United States and abroad.

Very truly yours,

Robert E. Conn (signed)
Vice President and Counsel

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ATTACHMENT A-2

RETYPED COPY

WESTERN UNION INTERNATIONAL, INC.

November 15, 1965

Mr. Harold M. Botkin
Assistant Vice President
International Services
Long Lines Department
American Telephone and Telegraph Co.
32 Avenue of the Americas
New York, New York 10013

Dear Mr. Botkin:

Western Union International offers its overseas data transmission services to the public throughout the continental United States. Subscribers of the American Telephone and Telegraph Company may transmit their data communications via WUI pursuant to its Overseas Datel Service Tariff FCC No. 11 and its Overseas Broadband Exchange Service Tariff No. 6.

In connection with its data transmission services, WUI is endeavoring to avoid any unnecessary costs resulting from redundant central office equipment and at the same time avoid any artificial barriers which might be interposed to the detriment of the service. The public has its choice of computers and business machines supplied by many different manufacturers. No useful purpose would be served by the installation at WUI's central office of the many varieties of machines available to the public in order to intercept data communications from subscribers intended for their overseas correspondents. The imposition of any such artificial and unnecessary barriers between data correspondents would only serve to increase the cost of service and detract from its efficiency.

It is clear that subscribers to the Broadband Exchange Service of The Western Union Telegraph Company may transmit their overseas data communications directly to their overseas correspondents via the international record carriers.

These carriers are not required to invest in costly redundant business machines for the unnecessary function of intercepting these data communications for retransmission abroad.

Please confirm by reply letter that the Telephone Company will permit direct overseas data calls via Telephone Company facilities in conjunction with WUI's existing data transmission services and that no requirements will be imposed upon WUI to intercept and terminate these calls as a condition precedent to the transmission abroad via WUI's facilities.

There remains the matter of the modems necessary to provide data transmission service between Telephone Company subscribers in the United States and their subscribers abroad. Please advise whether the Telephone Company intends:

(a) To provide CCITT-recommended modems to its subscribers who wish to avail themselves of WUI's overseas data services; or

(b) To modify one or more of its modems to conform with CCITT recommendations as applicable for 600 and 1200 baud operation; or

(c) To permit WUI to furnish CCITT-recommended modems to Telephone Company subscribers who wish to avail themselves of WUI's overseas data services. In the event that the Telephone Company intends to follow the alternative mentioned in this paragraph, please advise whether the Telephone Company is willing to provide maintenance service for WUI-supplied modems on a contractual basis with WUI.

Your prompt cooperation in this matter will be greatly appreciated.

Yours very truly,

P.R. Easterlin (signed)
Vice President

RETYPED COPY

AMERICAN TELEPHONE AND TELEGRAPH COMPANY
LONG LINES DEPARTMENT

January 6, 1966.

Mr. P. R. Easterlin, Vice President
Plant and Engineering
Western Union International, Inc.
26 Broadway
New York, New York

Dear Mr. Easterlin:

We have reviewed the proposals included in your letter of November 15, 1965 as clarified in the letter from Mr. Conn to Mr. Ashley of December 2 concerning direct connection between your message type overseas data services and our domestic DATA-PHONE service.

The currently effective service arrangements would appear to be adequate to meet present needs. As you know, these include tie line connections to those of your customers who are located in your gateways, private line connections to customers in other locations, and back-to-back connections of our DATA-PHONE set with your data equipment. In addition, of course, as you point out in your letter, your overseas data services can be made available to customers in the United States by means of Western Union's Broadband Exchange Service.

Our DATA-PHONE offering is quite different from your message data services. DATA-PHONE service is an adjunct to regular message telephone service rather than a distinctive and separate data offering. If there were to be direct connection between DATA-PHONE service and your message type overseas data services, there would be no restriction whatever on the use of such an interconnected service for voice communication. This would be a radical departure from the existing pattern of international communications and one which we are not persuaded is required by the public interest at this time.

Turning now to the questions you raised concerning modems, inasmuch as we do not believe direct interconnection of our message network and yours is required in the interest of service to the public, any possible operating difficulties due to differences in the modems used on our network and those used overseas need not be resolved. On private line circuits, which can be directly interconnected, there would appear to be no problem in the event the modems used at the distant end will not work with ours. Our customers are permitted to provide their own modems on our private line circuits so long as they do not interfere with or impair the proper operation of the telephone system.

Yours very truly,

H.M. Botkin (signed)
Assistant Vice President

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RETYPED COPY ATTACHMENT C

AMERICAN TELEPHONE AND TELEGRAPH COMPANY

August 31, 1972

Mr. E.A. Gallagher, President
Western Union International, Inc.
26 Broad Street
New York, N.Y. 10004

As an outgrowth of earlier discussions and meetings on the subject, I am now able to tell you that AT&T agrees in principle to direct electrical connection at your premises of Bell System local loops used to provide Message Telecommunications and Wide Area Telecommunications (WATS) Services with the facilities used by your company to provide Overseas DATEL service. We understand that this connection is for the purpose of making possible the transmission of data or other non-voice communications, as covered in your Overseas DATEL tariff, between telephone customers in the United States and customers in overseas points to which your company is authorized by the F.C.C. to provide Overseas DATEL service.

This agreement to connect is contingent upon your agreement to comply with necessary criteria so as to protect our network and your obtaining a sufficient number of lines to preclude any blockage of incoming calls which would interfere with any of the services offered by the Telephone Company.

The facilities used to provide Message Telecommunications and WATS Services are designed primarily for voice transmission, and are not represented as adapted to the use of customer-provided terminal equipment. From the Telephone Company standpoint, such connection would be permissive, and the Telephone Company would not be responsible for the quality of data and other non-voice transmission between the user's telephone instrument and the point of connection with your DATEL facilities.

There will, of course, be charges for the use of our lines and charges for long distance calls which would apply whether or not an overseas transmission takes place.

We will be glad to meet with you at your convenience to work out the details of this arrangement.

Sincerely,

(Sgd.) R.B. NICHOLS

ATTACHMENT D

RETYPED COPY

WESTERN UNION INTERNATIONAL, INC.

January 29, 1973

G.W. Bates, Esquire
General Counsel
New York Telephone Company
120 West Street
New York, New York

Dear Mr. Bates:

Western Union International, Inc. (WUI) a common carrier whose principal operations are located in New York City, presently provides an overseas "datel" service which furnishes to customers a data operation -- with voice coordination of the data transmission. WUI is seeking authority to expand this service by removing the inhibiting restriction of voice purely as coordination. WUI is already authorized to provide such an unrestricted service to Hawaii.

However, one of the deterrents to expanding this service has been a lack of automatic interconnection with the public telephone switched network.

We should therefore like to obtain from you your agreement to permit telephone subscribers located within the State of New York to automatically interconnect with the overseas facilities of WUI in order that WUI will be in a position to furnish the public within the State of New York an international "dataphone" type of service.

A prompt reply is requested in light of the pendency of proceedings before the Federal Communications Commission which will require WUI to address itself to this question within the next few weeks.

Copies of this letter have been forwarded to the Federal Communications Commission, the Office of Telecommunications Policy and the New York Public Service Commission.

Very truly yours,

E. B'od (Signed)
Vice President & Counsel

cc: Mr. Bernard Strassburg, Chief, Common Carrier Branch, FCC
Mr. Ben F. Waple, Secretary, FCC
Mr. Clay T. Whitehead, Director, O'P
Mr. Joseph C. Swidler, Chairman, PSC
Mr. Samuel R. Madison, Secretary, PSC

ATTACHMENT E

RETYPED COPY

NEW YORK TELEPHONE COMPANY
LEGAL DEPARTMENT

February 23, 1973

Mr. Ernest Brod
Vice President and Counsel
Western Union International, Inc.
25 Broadway
New York, N.Y. 10004

Dear Mr. Brod:

Your letter of January 29th in which you request automatic interconnect for overseas "datel" service without voice restriction and your letter of February 2nd in which you request the Company to bill our subscribers directly for WUI overseas cablegrams have been referred to me.

After reviewing your requests, it is our conclusion that in view of the pending F.C.C. dockets Nos. 19660 and 19558, a commitment on the part of this Company at this time would be premature. Upon resolution of the two F.C.C. dockets mentioned above, we will be happy to discuss the matter further.

Very truly yours,

Burton K. Katkin (signed)
General Attorney

RETYPED COPY

WESTERN UNION INTERNATIONAL, INC.

February 27, 1973

Burton A. Katkin, Esq.
General Attorney
New York Telephone Company
Legal Department
140 West Street
New York, N.Y. 10007

Dear Mr. Katkin:

Receipt is acknowledged of your letter of February 23, 1973, in which you decline to respond substantively to WUI's requests: (1) for automatic interconnection between telephone subscribers located within New York and WUI's overseas dated facilities (WUI letter, January 29, 1973); and (2) to bill telephone subscribers located within New York directly for overseas cablegrams filed by telephone with WUI (WUI letter, February 2, 1973).

Your letter contains the following:

"After reviewing your requests, it is our conclusion that in view of the pending F.C.C. dockets Nos. 19660 and 19558, a commitment on the part of this Company at this time would be premature. Upon resolution of the two F.C.C. dockets mentioned above, we will be happy to discuss the matter further."

It is not within the prerogative of your company to avoid responding substantively to WUI's reasonable requests on the grounds of the pendency of certain proceedings before the Federal Communications Commission. That Commission, not New York Telephone Company, will determine the applicability of its proceedings, policies and rules to the overseas services offered by WUI. There is enclosed for your information a copy of a letter, dated September 1, 1971, from the Commission to another telephone company advising it to this same effect.

February 27, 1973

Your prompt reply to our aforementioned requests of January 29 and February 2, 1973 will be greatly appreciated.

Very truly yours,

E. Brod (Signed)
Vice President and Counsel

Enclosure

cc: Mr. Joseph Swidler, Chairman, PSC
Mr. Samuel R. Madison, Secretary, PSC
Mr. Ben F. Waple, Secretary, FCC
Mr. Bernard Strassburg, Chief,
Common Carrier Bureau, FCC

WESTERN UNION INTERNATIONAL, INC.

June 4, 1974

Mr. C.W. Jackson
American Telephone & Telegraph Co.
Director of Business Relations
195 Broadway
New York, N.Y. 10007

Dear Mr. Jackson:

Western Union International, Inc., a common carrier whose principal operations are located in New York City, provides an overseas switched data service known as "Datel", which furnishes to customers data operation -- with voice for coordination purposes.

This service is presently interconnected to the AT&T Long Distance Message Telecommunications network via two wire subscriber access lines and manual data access arrangements provided by the New York Telephone Company. This interconnection arrangement was established in March 1973. In order to improve the quality of Datel calls which are interconnected to the AT&T network, and to automate the setting up and disconnection of calls, WUI proposes that our interconnection for Datel service be changed to one that is more suitable. Our engineering department has reviewed the technical aspects in this area, and their recommendation is that AT&T provide a four wire trunk interconnection into a tandem switching exchange (class 4 office or higher). This type of interconnection would result in improved transmission parameters and greatly improved signalling conditions, as well as allowing some automation of the service.

In addition, we wish to establish a fair and equitable toll settlement procedure for Datel calls, since WUI now absorbs the domestic connection charge for all calls. Presently outbound calls are established on a collect basis leading to the necessity for additional operator assistance and transmission problems due to the operator switchboards.

Summarizing, we are seeking to interconnect Datel service to the AT&T message network in the same manner as any class 5 central office of an independent telephone company might connect to an AT&T toll office. The requested interconnection could be made on a contract or tariff basis.

May we have an early response please?

Very truly yours,

L.A. Cohen (Signed)
Director of Marketing

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ATTACHMENT II

RETYPED COPY

AMERICAN TELEPHONE AND TELEGRAPH COMPANY

June 27, 1974

Mr. L. A. Cohen
Director of Marketing
Western Union International, Inc.
26 Broadway
New York, N.Y. 10004

Dear Mr. Cohen:

This is in response to your letter of June 4, 1974 relative to the interconnection of Bell System exchange services and the overseas "DATEL" service provided by Western Union International Inc. (WUI). As pointed out in your letter, DATEL is a data service utilizing voice coordination which, of course, is not the same as alternate voice-data service. The interconnection is thus between a WUI data service and a Bell exchange voice service which may be used alternatively for data transmission.

The interconnection which now exists in New York City is being made on the basis of a service interconnection whereby each carrier is responsible to its customer for its own service from the point of connection. There is no joint through service responsibility and there is no tariff guarantee of overall quality of the interconnected services to the WUI customer. The Telephone Company is rendering its exchange service to WUI as a customer and has agreed to the connection in the interest of providing access in New York to WUI's overseas DATEL service.

This concept is consistent with the Bell System's interest in expanding public opportunity for data transmission overseas through its application to the FCC for the introduction of overseas DATAPHONE service (Docket No. 19558).

Your letter attempts to draw an analogy to the interconnection arrangements between the Bell System and Independent telephone companies, but such an analogy is not valid as the circumstances are quite different. Bell Companies provide a joint through service with the Independents under tariffs in which the

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Independents concur, and the customer pays a rate for service between the terminal points. Thus, the Telephone Companies are partners in a joint undertaking. Under the existing DATEL interconnection arrangements WUI is free to absorb the charges for the domestic service or to include these charges in its DATEL rate structure. Since there is no joint through service, there is no need for a toll settlement procedure.

It may be that the existing arrangements for setting up and disconnection of calls can be improved upon. In view of this we suggest that WUI contact Mr. A.R. VanPetten, Business Relations Coordinator of the New York Telephone Company to explore the possibility of automating the interconnection arrangements on WUI premises.

Yours very truly,

C. W. Jackson (Signed)
Business Relations Director

cc: A.R. VanPetten

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ATTACHMENT I

RETYPED COPY

GENERAL TELEPHONE COMPANY OF FLORIDA

December 12, 1974

Mr. K. M. Jockers
Western Union International, Inc.
One WUI Plaza
New York, New York 10004

Dear Mr. Jockers:

This is in response to your letter of October 25, 1974 and the several conversations and meeting with Mr. S. E. Mitteldorf concerning a Tampa-New York trunk group for Datel.

Through the conversations and meeting, as well as our own investigation, we have reviewed this matter in considerable detail. The initial consideration was that a dedicated trunk group with some combination of WATS/INWATS would meet your requirements. However, as covered in the meeting of November 8, because of translation requirements and the fact that we are not the principal city for INWATS translation, such arrangement does not appear feasible.

Further discussion and review indicates that from a technical standpoint, the only workable arrangement would be the dedicated trunk group with an 813 NNX code reserved for your use. The message toll network would then be utilized for handling Datel traffic between Tampa and the point of origination or termination (within the United States) with the associated message toll charges. For several reasons, this would appear to be an uneconomical method of operation.

In addition, the reservation of an NNX code for such restricted use causes us considerable concern. While this may not be an immediate problem there is a limit to the number of such codes available and to dedicate an entire code to such a few subscribers appears imprudent. Accordingly, we do not believe that further exploration of such an arrangement would be worthwhile for either company.

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December 12, 1974

We share your concern in regard to the problems you are facing with the present arrangement and hope that a satisfactory solution can be found. It would seem that this might best be accomplished right in the New York area.

Very truly yours,

John H. Hancock (Signed)
Director of Business Relations

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FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

September 1, 1971

IN REPLY REFER TO:

9520

AIR MAIL

Hawaiian Telephone Company
P. O. Box 2200
Honolulu, Hawaii 96805

Attention: John D. Field, President

Gentlemen:

This is in reference to the August 12, 1971 letter from Thomas J. O'Reilly, counsel for Hawaiian Telephone Company (HTC) regarding the provision of connecting facilities to Western Union International, Inc. (WUI) within the State of Hawaii to be used in connection with overseas facilities ordered from WUI by the General Services Administration (GSA).

In such letter, it is indicated that HTC believes that provision of a portion of the subject facilities to GSA by WUI would be in violation of WUI's outstanding authorizations and that HTC is reluctant to become a party to a service arrangement which would violate outstanding Commission authorizations by providing the subject connecting circuits. The Commission appreciates the concern of HTC in this matter. However, we believe that the proper course for HTC to follow is to bring this matter before the Commission for determination rather than to undertake the unilateral action of refusing to provide the connecting circuits to WUI.

WUI by letter of August 31, 1971 has indicated that the service implementation date desired by GSA is September 2, 1971. Under these circumstances, we believe that the public interest requires that there be no further delay in making the subject connecting facilities available to WUI.

WUI's provision of this service before Commission determination of this matter is at WUI's risk and, should the Commission determine that in fact the provision of the subject service is in violation

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of WUI's authorizations or tariffs, the Commission will take appropriate action. The fact that HTC might have furnished terminating facilities to WUI would in no way subject HTC to liability or implicate it in any violation of the Commission's Policies or Rules.

Sincerely yours,

Bernard Strassburg

Bernard Strassburg
Chief, Common Carrier Bureau

CC:

Mr. Robert Conn
Western Union International, Inc.

Thomas J. O'Reilly, Esquire
Hawaiian Telephone Company

102

J. B. Mulheern
President

New York Telephone
1095 Avenue of the Americas
New York, N.Y. 10036
Phone (212) 395-2324

April 21, 1976

Mr. R. P. Romanelli
President
Western Union International, Inc.
One WUT Plaza
New York, N. Y. 10004

Dear Mr. Romanelli:

This is in response to your letter of April 9 concerning interconnection facilities for Western Union International's use in the provision of international "dataphone-type services".

It is my understanding that the nature of the facilities to be provided and the business arrangements with respect thereto are currently the subject of discussions between the American Telephone and Telegraph Company representing the various Bell System Companies involved and the various international record carriers including WUI. These are being conducted to effectuate the Order of the Federal Communications Commission in Docket No. 19555 to which you referred in your letter, and to the extent necessary will be the subject of further consideration there. Under the circumstances, I would not think it desirable for our Companies to open a separate set of negotiations. I am sending a copy of this correspondence to Mr. George V. Cook, Vice President of the American Company, so that he may be apprised of your concerns.

May I also thank you for your good wishes on my assuming my new position.

Yours very truly,

J. B. Mulheern

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

MAILED 6-10-76

IN REPLY REFER TO:
9420

American Telephone and Telegraph Company
Long Lines Department
32 Avenue of the Americas
New York, New York 10013

Attention: R.B. Nichols, Vice President

ITT World Communications, Inc.
67 Broad Street
New York, New York 10004

Attention: Joseph J. Jacobs, Esq.

RCA Global Communications, Inc.
60 Broad Strbet
New York, New York 10004

Attention: Charles M. Lehrhaupt, Esq.

TRT Telecommunications Corporation
1747 Pennsylvania Avenue
Washington, D.C. 20006

Attention: Roderick A. Mette, Vice President and Counsel

Western Union International, Inc.
One WUI Plaza
New York, New York 10004

Attention: Robert Michelson, Esq.

Re: Docket No. 19558

Gentlemen:

This is in reply to your letters relative to the results of your meetings to reach agreements, on interconnection of the IRC's with AT&T's domestic switched telephone network for new service to expand their switched record services, per paragraph 16 of the Report and Order adopted January 18, 1976 in Docket No. 19558.

Having reviewed your letters, it is apparent that there are some misunderstandings as to the intent of the Order issued under Docket No. 19558 and in particular paragraph 16. Therefore, it seems appropriate that a meeting be held with members of my staff where each of you can clarify the nature of your request for interconnection, its relationship to providing new services as defined in Docket 19558 Order, and the reason why such interconnections are not made if justified.

The basic purpose of the meeting will be to assist you in resolving problems which may hinder you in providing the new services that are in the best interest of the public as stated in the Report and Order, paragraphs 12 through 15 of Docket No. 19558.

In view of the meetings you have already held on the above subject, it seems that two weeks should be adequate for preparation for a meeting with members of my staff on June 22, 1976 at 1919 M Street, N.W. in Washington at 1:00 p.m. in Room 511.

If you have any questions on the above, contact Mr. E.J. Bonanno of my staff.

Sincerely yours,

Walter R. Hinchman
Chief, Common Carrier Bureau

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)
	)
AMERICAN TELEPHONE AND TELEGRAPH COMPANY	)
	)
For appropriate modification of existing authorizations issued under Section 214 of the Communications Act of 1934, as amended, to permit the use of the Message Telecommunications Service network for DATAPHONE ® transmission between points in or reached via the United States Mainland, on the one hand, and overseas points, on the other hand.	)

APPLICATION

American Telephone and Telegraph Company (hereinafter referred to as "AT&T") hereby requests appropriate modification of existing authorizations issued under Section 214 of the Communications Act of 1934, as amended, to permit the use of the Message Telecommunications Service network (hereinafter referred to as the "MTS" network) for DATAPHONE ®* transmission between points in or reached via the United States Mainland, on the one hand, and overseas points, on the other hand.

In accordance with Section 63.01 of the Commission's Rules and Regulations, AT&T submits the following information in support of this Application:

---

* The term "DATAPHONE ®" as used herein is a Registered service mark of AT&T Co.

1. This Application is filed pursuant to the Commission's Report and Order in Docket No. 19558 (FCC 76-10) released January 19, 1976 (the "January 19, 1976 Order"). It requests the Commission to modify AT&T's existing Section 214 certificates so that AT&T may permit its customers to use its Message Telecommunications Service (MTS) to overseas points alternately for DATAPHONE transmission just as AT&T now permits its customers to use MTS alternately for DATAPHONE transmission within the United States.* DATAPHONE transmission is a permissive use of the MTS network which allows customers to couple a data set, facsimile or other equipment to their telephone terminal and utilize the MTS network alternately for data transmission.

2. AT&T is a corporation organized and existing under the laws of the State of New York and having its principal office at 195 Broadway, New York, N.Y. 10007.

3. Correspondence concerning this Application should be addressed to Mr. R. B. Nichols, Vice President-Overseas, Long Lines Department, American Telephone and Telegraph Company, 32 Avenue of the Americas, New York, N.Y. 10013.

---

* Under AT&T's tariffs, customers may use MTS for DATAPHONE service within the contiguous 48 States, Alaska, Hawaii and Canada. As used in this Application, the term "overseas" refers to all other domestic and international locations.

4. AT&T is engaged in the business of furnishing interstate and foreign communication services for hire. It is a common carrier subject to the Communications Act of 1934, as amended.

5. The facilities referred to in this Application are existing facilities devoted to providing AT&T's overseas and international services.* The January 19, 1976 Order stated that present Section 214 authorizations for these facilities limit AT&T to providing MTS - voice only, private line voice and program transmission over these facilities** and, thus, present authorizations preclude the use of these facilities for DATAPHONE transmission. Accordingly, this Application seeks modification of such existing authorizations to permit use of the existing overseas MTS facilities for DATAPHONE transmission between points in or reached via the United States Mainland, on the one hand, and overseas points, on the other hand.

6. This Application seeks only to modify restrictions on the use of existing authorized facilities and does not seek authorization for the construction or acquisition of additional facilities.

---

* Other than facilities used to provide MTS within the contiguous 48 States and to Alaska, Hawaii and Canada.

** January 19, 1976 Order, para. 1.

7. As noted by the Commission's January 19, 1976 Order, there is an existing and growing need and demand for the use of the overseas MTS network for DATAPHONE transmission.* The authorization sought by this Application would permit AT&T to meet an unmet need by giving customers the added flexibility of using the international switched MTS system for both voice and DATAPHONE transmission. The availability of overseas DATAPHONE transmission on the existing network will serve the public interest, convenience and necessity.**

8. The use of the public switched telephone network for overseas transmission of data would not involve any significant additions or modifications to the MTS network. Accordingly, no significant additional cost will be incurred as a result of the granting of this Application. The rates for the use of the public switched network for overseas DATAPHONE transmission would be the same as those for overseas MTS specified in AT&T's Tariff FCC No. 263.

9. With respect to the demand for overseas data transmission, AT&T estimates the annual number of messages and minutes would be as follows:***

---

* January 19, 1976 Order, paras. 3, 4, 15.

** Ibid, para. 11.

*** The figures exclude Alaska and Hawaii.

Year	Messages (millions)	Minutes (millions)
1976 (annualized)	.3	1.8
1977	.7	4.2
1978	1.2	7.2
1979	2.0	12.0
1980	3.1	18.6

This estimate is based on the assumption that the percent of total overseas messages utilizing DATAPHONE transmission would grow from 0.4% in 1976 (annualized) to 2% in 1980. Currently, it is estimated that about 4% of total MTS domestic traffic consists of DATAPHONE calls.

10. On the basis of these estimated overseas DATAPHONE volumes, AT&T estimates that the gross revenues from overseas DATAPHONE transmission and AT&T's share thereof, after deducting the shares of the overseas carriers and administrations, for the remainder of this decade, would be as follows:

	Revenues (Millions)	
Year	Gross	AT&T's Share
1976	$ 3.6	$ 1.8
1977	8.4	4.2
1978	14.4	7.2
1979	24.0	12.0
1980	37.2	18.6

11. AT&T's present estimates of the volume of overseas DATAPHONE traffic during the remainder of this decade are within the limits of the normal fluctuation range for the MTS voice-only forecast itself. For example,

in 1980, the circuit requirements for overseas DATAPHONE transmission is estimated to be about 2% of the total overseas requirements. Therefore, for the remainder of this decade, AT&T's estimated circuit needs to accommodate DATAPHONE usage are well within AT&T's existing projected overseas circuit requirements and will not require the construction of additional facilities over and above those already planned.

12. Operating methods for transmission of data would be similar to those employed for voice telephone calls. Thus, the customer would establish a connection for his data call in a similar manner as he would establish a voice telephone call to the desired distant location. The customer would connect his data service to the telephone network through a data modem or data access arrangement terminal equipment similar to those used with the public switched network for DATAPHONE transmission in the contiguous United States. The transmission of data over the connection would then proceed over the overseas MTS network. This arrangement would provide for the simplest access to, and the least costly and widest utilization of, overseas MTS facilities by the public for transmission of data.

13. No significant change in the existing service and operating arrangements with overseas correspondents would be required. An understanding would

be reached with each overseas correspondent to permit the use of MTS for DATAPHONE transmission at the established MTS rates. The revenues from such use would be treated the same as other telephone message revenues and thus would be shared with the overseas correspondents as revenues from MTS in accordance with existing division of revenue arrangements provided for in service agreements heretofore made by AT&T and its correspondents and on file with the Commission.

14. In January, 1976, AT&T telexed all of its overseas correspondents asking whether or not they would agree to the use of MTS network by customers for other then voice transmission. To date, AT&T has received agreement from forty administrations and refusals from five. Fourteen administrations have indicated that the matter is under consideration. AT&T expects to hear from the remaining thirty-five correspondents shortly. However, AT&T is requesting authority in this Application for use of all of its overseas facilities for DATAPHONE transmission, subject to the filing of appropriate tariffs. It is anticipated that the proposed revisions to Tariff FCC No. 263 will set forth those countries that have not agreed to the use of the public switched network for data transmission (See Attachment A)

15. Accounting would be in accordance with Part 31 of the Commission's Rules and Regulations.

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WHEREFORE, AT&T hereby requests appropriate modification of existing authorizations issued under Section 214 of the Communications Act of 1934, as amended, to permit DATAPHONE transmission between points in or reached via the United States Mainland, on the one hand, and overseas points, on the other hand.

Respectfully submitted,

AMERICAN TELEPHONE AND TELEGRAPH COMPANY

By /s/ R. B. Nichols
R. B. Nichols

Vice President-Overseas
Long Lines Department

By /s/ Randall B. Lowe
Randall B. Lowe

Its Attorney

32 Avenue of the Americas
New York, New York 10013

Dated: April 9, 1976

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2.6.4 Terminal Equipment

(A) Data Transmitting and/or Receiving Terminal Equipment

(1) Customer-provided data transmitting and/or receiving terminal equipment (including telephotograph equipment) which involves direct electrical connection to the facilities furnished by the Telephone Company may be used with such facilities for long distance message telecommunications service either through a DATAPHONE data set, or a data access arrangement, provided by the Telephone Company as described in 2.6.4(A)(2) and 2.6.4(A)(3) respectively. Use of such service is on a two-point basis between points in the United States, and between points in the United States and points outside the United States except for the following: (List countries with which agreements to provide the service have not been reached).

2.6.4 Terminal Equipment (Cont'd)

(A) Data Transmitting and/or Receiving Terminal Equipment (Cont'd)

(4) Acoustic, Inductive Connection

(a) Customer-provided data transmitting and/or receiving terminal equipment (including telephotograph equipment) may be acoustically or inductively connected with Telephone Company facilities for long distance message telecommunications service provided the acoustic or inductive connection is made externally to a Telephone Company network control signalling unit. Use of such service is on a two-point basis between points in the United States, and between points in the United States, and points outside the United States except for the following: (List countries with which agreements to provide the service have not been reached)

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
AMERICAN TELEPHONE AND TELEGRAPH COMPANY	)	
	)	
For appropriate modification of existing authorizations issued under Section 214 of the Communications Act of 1934, as amended, to permit the use of the Message Telecommunications Service network for DATAPHONE transmission between points in or reached via the United States Mainland, on the one hand, and overseas points, on the other hand.	)	File No. I-P-C-12

PETITION TO DEFER OR DENY
BY
WESTERN UNION INTERNATIONAL, INC.

Western Union International, Inc. (WUI) hereby submits its petition to defer or deny the above-captioned application of American Telephone and Telegraph Company (AT&T) until the successful completion of interconnection and access arrangements with AT&T's monopoly telephone network required by WUI for the provision of its own dataphone-type services. Alternatively, the Commission should deny this application without prejudice to its resubmission by AT&T together with evidence of its full compliance with the Commission's interconnection mandate.

AT&T's application, filed subsequent to the Commission's Report and Order (Order), released January 19, 1976 in Docket No. 19558, seeks authorization to permit customers of AT&T's Message Telecommunications

Service (MTS) to utilize the MTS network to permit Dataphone* transmission between the United States Mainland and overseas points. The Commission's Order of January 19, 1976 envisioned competition between and among AT&T and each of the international record carriers (IRCs) for the provision of overseas dataphone-type services. WUI submits that such a vision is merely an illusion without reasonable and non-discriminatory interconnection and access arrangements between the IRCs and AT&T's MTS network. Further, such arrangements must be completed prior to any overseas Dataphone authorization to AT&T if the Commission is to preserve any realistic expectation of competition.

A grant to AT&T of the requested authority, while the IRCs remain handicapped by inadequate and inferior interconnection and access arrangements, would greatly compound the enormous disadvantage under which the IRCs have been placed. Any substantial head start for AT&T, which already enjoys a vast competitive advantage by virtue of its monopoly control of the MTS network, would effectively render the prospect for any significant competition for overseas dataphone-type services nugatory.

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*The term "Dataphone" as used in AT&T's Application is a registered service mark of AT&T. AT&T defines Dataphone as "a permissive use of the MTS network which allows customers to couple a data set, facsimile or other equipment to their telephone terminal and utilize the MTS network alternatively for data transmission". (AT&T Application, para. 1.)

It is apparent that AT&T has no intention of providing the IRCs with the interconnection and access arrangements which they require to provide competitive dataphone-type services. When the IRCs submitted descriptions of their interconnection requirements, pursuant to paragraph 16 of the Order, AT&T's response* utterly ignored any substantive consideration of, or comment on, the IRCs' requirements because they did not accord with AT&T's view of the nature of that interconnection and the particular dataphone-type services to be provided thereby.

WUI remains incredulous that AT&T would attempt to restrict the Commission's dataphone-type authorization for the IRCs to something less than AT&T's own authorization as a stratagem to avoid its interconnection obligations. Clearly, WUI has been authorized to provide the same type of alternate voice/data dial-up service as AT&T and, accordingly, needs the same type of interconnection with the domestic telephone network as AT&T's Long Lines Department. AT&T to the contrary notwithstanding, the alternate voice portion of WUI's service is not restricted or impaired. If there is any doubt concerning this crucial

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*AT&T's Reply, April 26, 1976, Docket No. 19558.

matter, let it be resolved now while the Order of January 19, 1976 is on appeal.*

AT&T's "stonewalling" of the legitimate and well-considered interconnection requirements of the IRCs necessitated a letter of reply from WUI to the Chief, Common Carrier Bureau, calling attention to the continuing pattern of obfuscation and delay by which AT&T has managed, for more than a decade, to minimize the marketability and growth of the IRCs' overseas switched-data services (Datel). Thus, WUI pointed out that

> "despite (i) the essential nature of WUI's authorized services, (ii) the clear Commission directive for adequate interconnection set forth in the Order, and (iii) prior Commission directives that domestic networks fully interconnect with international carriers, [citation omitted] AT&T has attempted to usurp the Commission's function as regulator by arbitrarily declaring that the IRCs are not authorized to compete with AT&T in the overseas voice/data business."**

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*United States Court of Appeals, Second Circuit, Docket Nos. 76-4049, 76-4061, 76-4074.

**WUI's letter of June 15, 1976 included, as attachments, letters from WUI to the Commission dated October 17, 1975 and December 4, 1975 together with their respective attachments. These documents collectively serve to illuminate the long and frustrating history of WUI's efforts to obtain improved interconnection facilities from AT&T, its associated Bell System companies, and even independent telephone companies. A copy of WUI's June 15, 1976 letter, together with all attachments, is attached hereto.

AT&T's transparent tactic of obfuscation and delay was correctly recognized and rejected by the Commission in its formulation of the interconnect policies established for the domestic specialized common carriers.* The Commission's Order of January 19, 1976 looked toward AT&T/IRC interconnection pursuant to those policies. Surely the Commission must be even more vigilant in assuring that the IRCs, whose services have been confirmed as "essential to the national interests of the United States",** obtain adequate and non-discriminatory interconnection arrangements from AT&T for the provision of those services. WUI, as distinguished from the domestic specialized carriers, provides essential public message service to small social and residential users, and thus its access to the monopoly telephone network is deserving of the highest standard of regulatory control.

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*See, for example, the following: Microwave Communications, Inc., 18 F.C.C. 2d 953 (1969), reconsideration denied, 21 F.C.C. 2d 190 (1970), modifications granted, 27 F.C.C. 2d 380 (1971); Specialized Common Carrier Inquiry, 24 F.C.C. 2d 318 (1970) 29 F.C.C. 2d 980 (1971), reconsideration denied 31 F.C.C. 2d 1106 (1971), affirmed sub nom, Washington Utilities & Transportation Commission v. FCC, No. 71-2919 (9th Cir. Jan. 20, 1975); and Bell System Tariff Offerings, 46 FCC 2d 413 (1974); aff'd sub nom Bell Telephone Co. of Pennsylvania v. FCC, 503 F. 2d 1250 (1974); cert. denied, 43 U.S.L.W. 3654 (1975).

**In re RCA Global Communications, Inc., 42 F.C.C. 2d 774, 781 (1973) emphasis added.

Anyone familiar with the long struggle by specialized carriers, serving only business and larger users, to obtain adequate and non-discriminatory interconnection with the Bell System can only view AT&T's adamance with a disheartening sense of deja vu. Here is the same refusal of AT&T to address the technical and operational "nuts and bolts" of interconnection; the same construction of obfuscatory and irrelevant "issues"; and the same amorphous questions, leading nowhere, regarding network supervision and control.

The Commission must firmly reject AT&T's obvious anti-competitive tactics against the international public service carriers. Interconnection between the MTS network and the IRCs' switched voice/data services must be under non-discriminatory terms and conditions no less favorable than those accorded to AT&T's Long Lines Department for provision of its Dataphone service. And, if such interconnection is to have any competitive significance in the market for the overseas dataphone-type services, it must be implemented before any grant of authority to AT&T to provide international Dataphone. For the Commission to do otherwise would be:

(i) to strip itself of its most effective and efficient means of assuring AT&T's compliance with interconnection directive in paragraph 16 of the January 19, 1976 Order; and

(ii) to prejudice enormously the IRCs' efforts to implement and market their own competitive overseas data-phone-type services.

AT&T's tactic is transparent -- to render the IRCs' switched voice/data services so inaccessible and inconvenient to the MTS universe as to effectively eliminate all competition with AT&T's Dataphone service. It is important to note that the IRCs' inability to compete would not be the result of any possible innovative technology, superior service, or economies of scale on the part of AT&T. The lack of competitive ability would derive solely from lack of adequate and non-discriminatory interconnection with the network of a monopolist which is manipulating its singular advantage in unlawful restraint of competition. The Commission must affirm its prior, well-articulated interconnection policy and require AT&T to provide the interconnection sought by the IRCs.

To permit AT&T by means of its domestic monopoly network to restrict customer access to the IRCs, would be clearly inconsistent with years of Commission support for competition in the communications marketplace. Thus, Chairman Wiley recently reiterated his view that the Commission's goal is to "permit true

competition and not market allocation."* Simply put, what AT&T seeks herein by its refusal to provide appropriate interconnection is an arbitrary market allocation overwhelmingly to its benefit. This tactic must be rejected.

The Order of January 19, 1976 contemplates a competitive overseas market with AT&T and the IRCs offering dataphone-type services. But although the IRCs, unlike AT&T, are envisioned as offering a broad panoply of dataphone-type services, (including customized features) it would be unrealistic to presume that the IRCs' market would be viable absent the access to the same traffic from data users on the MTS network as can be served by AT&T.

The realities of the marketplace are that data users on the MTS network represent a broad and varied cross-section of data transmission requirements. These customers will select the service offering most suitable for them. They will review all parameters of available services, including any additional specialized features offered by the IRCs, the technical adequacy and quality of the transmission facility, and the ease with which

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*Address to International Communications Association, May 3, 1976.

they can reach (dial up) the overseas station. As correctly pointed out in earlier IRC comments regarding interconnection, it is likely that the bulk of dataphone-type customers may perceive the artificial (AT&T imposed) access incumbrances in the IRCs' services as outweighing any potential service enhancement or innovation.* For this reason WUI submits that adequate interconnection is a primary necessity, upon which is dependent the ultimate success of IRC efforts to compete.

In summary, in order to compete with AT&T for the provision of overseas dataphone-type services, given AT&T's monopoly control over the essential domestic network, the IRCs must be assured of adequate and non-discriminatory access arrangements to that network. Further, such arrangements must be implemented before AT&T is authorized to provide its overseas Dataphone service. To grant AT&T's instant application, prior to implementation of IRC access arrangements into the MTS network, would extend AT&T's monopolistic domination into the prospective vast new market of overseas switched data services. The Commission could never regain the regulatory

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*TRT Telecommunications Corporation, Required Interconnection For International Dataphone, Docket No. 19558, filed April 19, 1976, at page 3.

driver's seat, that it now occupies, to enforce the interconnection mandate of its Order of January 19, 1976. Such a result would deny to the new data market the proven benefits of competition -- such as rate reductions, service innovations and sensitivity to developing customer requirements -- that have heretofore characterized the development of the competitive international record carriers.

WHEREFORE, for the reasons set forth herein, WUI urges that the Commission defer consideration of AT&T's application, or deny it without prejudice to its resubmission after successful completion of the interconnection and access arrangements required by WUI. To this end, WUI urges the Commission to order the prompt commencement of IRC/AT&T interconnection negotiations, under Commission aegis, patterned after those recently successfully concluded in Docket No. 20099.

Respectfully submitted,

WESTERN UNION INTERNATIONAL, INC.

By: Robert Michelson
Attorney

One WUI Plaza
New York, New York 10004

July 23, 1976

Western Union International, Inc.
ONE WUI PLAZA · New York, N.Y. 10004

Telephone: (212) 363-5812

June 15, 1976

Mr. Walter R. Hinchman, Chief
Common Carrier Bureau
Federal Communications Commission
Washington, D.C. 20554

Re: Docket No. 19558
International Dataphone-Type Service

Dear Mr. Hinchman:

On April 26, 1976 American Telephone and Telegraph Company (AT&T) filed a "Reply" to the comments of the international record carriers (IRCs), including Western Union International, Inc. (WUI), pursuant to paragraph 16 of the Commission's Report and Order ("Order") released on January 19, 1976 (FCC 76-10) in the above-referenced inquiry into the provision of overseas dataphone-type services.* Rather than respond substantively to the specific interconnection requirements posed by the IRCs, AT&T has chosen to "stonewall" the entire interconnection issue by mischaracterizing the legitimate IRC proposals as an effort to "completely restructure the MTS network to enable the IRC's to enter into the overseas telephone business".** Because AT&T has apparently based its refusal to interconnect upon a self-serving, illogical and contorted interpretation of the Commission's intent, as expressed in the Order, WUI feels constrained to respond in order to correct any misunderstanding that may have been created by AT&T's Reply.

Implicit in AT&T's Reply is the view that the Order should be construed as contemplating a "competitive" overseas dataphone-type environment wherein:

(1) AT&T's services are free of restrictions on the use of data, and

(2) the IRCs are forced to retain their existing restrictions on the use of voice.

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*The IRCs filing comments were WUI, ITT World Communications Inc., RCA Global Communications, Inc., and TRT Telecommunications, Inc.

**AT&T Reply, ¶2.

WUI finds AT&T's inequitable, unsupportable view of the proposed competitive marketplace for overseas dataphone-type service nothing short of incredible. After more than a decade of effort by WUI before this Commission to bring to its Datel customers the benefits of an easily accessed, high quality switched alternate voice-data offering, it is inconceivable that the Commission would determine to retain the existing arbitrary restrictions for WUI's customers while freeing AT&T's service offering from restrictions. Such a determination would be all the more unfathomable, indeed unjustifiable, in light of AT&T's long history of adamant, imperious and self-serving refusal to provide improved interconnection facilities to WUI despite repeated requests during the past decade.*

While the Commission's Order quite properly required AT&T to establish interconnection arrangements "pursuant to our policies established for domestic common carriers"** WUI submits that, as a full service international record carrier (including the provision of essential public message and switched record services), it has historically enjoyed well-established interconnection rights into various domestic networks, including those of AT&T and The Western Union Telegraph Company, in order to provide WUI's full range of authorized services. The interconnection facilities now sought by WUI are consistent with such long-established operational relationships between WUI, as a full service international carrier, and the various appropriate domestic networks.

Indeed, the Commission itself has recognized the essential nature of the services provided by WUI and other international carriers. Expressing its concern that the

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*WUI's long and frustrating history of attempting to obtain improved interconnection facilities from AT&T, its associated Bell System companies, and even independent telephone companies, has been documented in this docket in letters from WUI to the Commission, dated October 17, 1975 and December 4, 1975. A copy of each letter is attached hereto for your information and convenience.

**Order, ¶16.

international record operations of RCA Global Communications, Inc. not be jeopardized by commingling with new domestic satellite operations, the Commission stated:

> "RCA Globcom is one of the principal international carriers furnishing worldwide communications services which are essential to the national interests of the United States. It is vital to the public interest that RCA Globcom's capacity to continue in this role not be significantly impaired..." [42 F.C.C. 2d 774, 781 (1973) emphasis added].

Unfortunately, despite (i) the essential nature of WUI's authorized services, (ii) the clear Commission directive for adequate interconnection set forth in the Order, and (iii) prior Commission directives that domestic networks fully interconnect with international carriers,* AT&T has attempted to usurp the Commission's function as regulator by arbitrarily declaring that the IRCs are not authorized to compete with AT&T in the overseas switched voice/data business.

WUI submits that AT&T's assumed regulatory role must be summarily rejected; that its contorted interpretation of the services to be provided by the IRCs pursuant to the Order is an incredible construction of self-serving transparency; and that such an arbitrary restriction on the use of voice alternately with data by the IRCs' customers would run directly contrary to Chairman Wiley's recently stated view that the Commission's goal is to "permit true competition and not market allocation."** WUI seeks the ability to compete for dataphone-type services free from arbitrarily imposed restraints such as those which AT&T, in its Reply, would place upon the IRCs. With its hegemony over the vast U.S. telephone network, both domestic and international, AT&T does not need the further advantage of arbitrary handicaps upon the IRCs.

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*See, for example, letter dated September 1, 1971 from Chief, Common Carrier Bureau to Hawaiian Telephone Company, copy attached.

**Address to International Communications Association, May 3, 1976.

AT&T's absolute refusal to entertain substantive discussions regarding interconnection with the IRCs for their overseas dataphone-type services is mirrored by the attitude of its Bell System affiliate, New York Telephone Company (NYTelCo), which has by letter of April 21, 1976 (copy attached) rejected WUI's efforts to initiate interconnection discussions. This "brush-off" is legally unsupportable since NYTelCo has a fundamental obligation to interconnect with WUI on the same basis as with AT&T's overseas arm. Under AT&T's dominance, the domestic telephone industry -- including the associated Bell companies and the so-called "independents" -- appears determined to exclude WUI from competing with AT&T's overseas arm for international dataphone-type services.

Accordingly, for the reasons hereinabove set forth as well as those contained in WUI's "Comments" of April 9, 1976 herein, WUI again urges the Commission: (i) to order the prompt commencement of WUI/AT&T interconnection negotiations, under Commission aegis, so as to enable WUI to effectively provide its overseas dataphone-type services; and (ii) to neither consider nor process any AT&T application to provide its overseas dataphone-type service until successful completion of the interconnection and access arrangements required by WUI.

Respectfully submitted,

Robert Michelson

Attachments (4)

cc: American Telephone & Telegraph Company
New York Telephone Company
The French Telegraph Cable Company
ITT World Communications Inc.
RCA Global Communications, Inc.
TRT Telecommunications Corporation

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

September 1, 1971

IN REPLY REFER TO:

9520

AIR MAIL

Hawaiian Telephone Company
P. O. Box 2200
Honolulu, Hawaii 96805

Attention: John D. Field, President

Gentlemen:

This is in reference to the August 12, 1971 letter from Thomas J. O'Reilly, counsel for Hawaiian Telephone Company (HTC) regarding the provision of connecting facilities to Western Union International, Inc. (WUI) within the State of Hawaii to be used in connection with overseas facilities ordered from WUI by the General Services Administration (GSA).

In such letter, it is indicated that HTC believes that provision of a portion of the subject facilities to GSA by WUI would be in violation of WUI's outstanding authorizations and that HTC is reluctant to become a party to a service arrangement which would violate outstanding Commission authorizations by providing the subject connecting circuits. The Commission appreciates the concern of HTC in this matter. However, we believe that the proper course for HTC to follow is to bring this matter before the Commission for determination rather than to undertake the unilateral action of refusing to provide the connecting circuits to WUI.

WUI by letter of August 31, 1971 has indicated that the service implementation date desired by GSA is September 2, 1971. Under these circumstances, we believe that the public interest requires that there be no further delay in making the subject connecting facilities available to WUI.

WUI's provision of this service before Commission determination of this matter is at WUI's risk and, should the Commission determine that in fact the provision of the subject service is in violation

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of WUI's authorizations or tariffs, the Commission will take appropriate action. The fact that HTC might have furnished terminating facilities to WUI would in no way subject HTC to liability or implicate it in any violation of the Commission's Policies or Rules.

Sincerely yours,

Bernard Strassburg

Bernard Strassburg
Chief, Common Carrier Bureau

CC:

Mr. Robert Conn
Western Union International, Inc.

Thomas J. O'Reilly, Esquire
Hawaiian Telephone Company



New York Telephone

J. B. Mulhearn
President

1095 Avenue of the Americas
New York, N.Y. 10036
Phone (212) 395-2324

April 21, 1976

Mr. R. P. Romanelli
President
Western Union International, Inc.
One WUI Plaza
New York, N. Y. 10004

Dear Mr. Romanelli:

This is in response to your letter of April 9 concerning interconnection facilities for Western Union International's use in the provision of international "dataphone-type services".

It is my understanding that the nature of the facilities to be provided and the business arrangements with respect thereto are currently the subject of discussions between the American Telephone and Telegraph Company representing the various Bell System Companies involved and the various international record carriers including WUI. These are being conducted to effectuate the Order of the Federal Communications Commission in Docket No. 19558 to which you referred in your letter, and to the extent necessary will be the subject of further consideration there. Under the circumstances, I would not think it desirable for our Companies to open a separate set of negotiations. I am sending a copy of this correspondence to Mr. George V. Cook, Vice President of the American Company, so that he may be apprised of your concerns.

May I also thank you for your good wishes on my assuming my new position.

Yours very truly,

J. B. Mulhearn

Western Union International, Inc.
ONE WUI PLAZA · New York, N.Y. 10004

ROBERT E. CONN
Executive Vice President

Telephone: (212) 363-6404

October 17, 1975

Honorable Richard E. Wiley
Chairman
Federal Communications Commission
Washington, D.C. 20554

Re: International Datel/Dataphone
Dial-up Service Inquiry
Docket No. 19558

Dear Mr. Wiley:

The Commission's calendar for October indicates that the Commission is scheduled to review the above-referenced 1972 inquiry to determine, among other issues, whether American Telephone & Telegraph Company (AT&T) should be authorized to provide a data/voice dial-up (demand) service to foreign overseas points. The ultimate resolution of that issue involves the same public interest considerations that formed the basis of the Commission's policy to preclude AT&T from entering the market for international record communications services. TAT-4 Decision 37 F.C.C. 1151 (1964). That policy was premised on the Commission's concern that AT&T's entry into the international record field would jeopardize the continuation of a viable competitive international record carrier industry. The wisdom of that policy has been demonstrated by over 10 years of competitive progress in data/voice private line service, with service provided at ever higher technical standards and at declining rates.*

This inquiry was instituted more than 3 years ago on July 26, 1972. 36 F.C.C. 2d 605. The purpose of this letter is to bring to the Commission's attention, certain developments that have occurred subsequent to early 1973 when comments were last filed in this inquiry--developments which further substantiate WUI's position that AT&T should not be granted the authorization it seeks to enter the overseas market for data/voice communications services.

*All cognizant Government Agencies, including this Commission, OTP, Justice, State and D.O.D., reaffirmed this TAT-4 policy and urged that it be applied to overseas demand data/voice service. Report of the Intragovernmental Committee on International Telecommunications, April 29, 1966, pp. 24-25 & 28.

Since the end of the pleading stage in this docket 2-1/2 years ago, WUI has made repeated efforts to establish arrangements for the appropriate interconnection of its own authorized datel facilities into the domestic telephone network of the Bell System. Such carrier-to-carrier interconnection would have enabled WUI to demonstrate that existing datel service, when so interconnected, can effectively meet present and future requirements for switched international data/voice demand service.* It would also have demonstrated that there is no need or justification for the Commission to authorize AT&T to provide such service and to thereby vitiate its established policy to prevent AT&T from permeating every growing communications market to the exclusion of effective competition.

However, despite WUI's repeated efforts to obtain adequate interconnection with the domestic telephone network, AT&T and its Bell System "partners" have engaged in concerted action to deny such arrangements to WUI. Moreover, even non-Bell (the so-called "independents") operating companies, although cooperative when first approached by WUI, have denied us interconnection after reviewing the matter. The refusal of Bell and the "independents" to provide adequate interconnection with WUI's authorized datel facilities is a flagrant and indefensible abuse of monopoly power. Otter-Tail Power Co. v. United States, 410 U.S. 366 (1973). AT&T should not be accorded preferential status by virtue of its affiliation with other operating companies of the Bell System. Accordingly, the Commission should take whatever steps are necessary and appropriate to assure that the Bell System operating companies provide the international record carriers interconnection into the domestic telephone network under terms and conditions no less favorable than those available to AT&T's Long Lines Department.

*Along with meaningful interconnection, WUI has repeatedly urged the Commission to modify existing record carrier authorizations to permit unrestricted voice communications (in lieu of the undue restriction of voice for coordination of data only) combined with data and facsimile transmissions in order to transform datel into the international data/voice demand service which is the subject of Docket No. 19558. WUI's regulatory endeavors in this regard since 1965 are recounted in our filings in this Docket.

It was precisely such anti-competitive and obstructionist behavior by the Bell System that was properly condemned by the Commission in Docket Nos. 19896 and 20099 regarding the domestic specialized carrier sector. In addition, the Commission took steps in its Domestic Satellite Inquiry (Docket No. 16495) to prevent AT&T from thwarting the development of a competitive marketplace for commercial private line services by restricting AT&T's use of its satellite system to its monopoly service for a minimum period of three years. WUI submits that similar forceful Commission action is warranted herein if the overseas data/voice demand marketplace is to be spared from becoming another Bell preserve.*

In addition to AT&T's refusal to provide adequate interconnection for datel, the very real threat posed by AT&T to competition in the international data communications field has been amply demonstrated during the past two years by AT&T-influenced activities in certain study groups of C.C.I.T.T. looking toward development of a future international integrated digital data/voice switched network predicated upon technical and operational parameters compatible with domestic Bell System design, to the practical exclusion of potential competition from the international record carriers.

It is WUI's position that it should be afforded a reasonable opportunity to demonstrate fully its capability to serve public requirements for overseas voice/data demand service;** that until now WUI has been denied this opportunity

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*Recent institution of massive anti-trust litigation by the U.S. Department of Justice directed against the Bell System cites instances of abuse of monopoly power as well as self-serving and anti-competitive practices not dissimilar to those cited hereinabove with respect to WUI's unsuccessful efforts to interconnect with the domestic telephone network.

**WUI would propose to provide efficient, economical overseas data/voice demand service by means of dedicated bundles of uniformly conditioned circuits such as expressly reserved for that purpose by a joint British Post Office/WUI resolution adopted at the Transatlantic Cable Conference concerning TAT-6 and CANTAT-II held at Eastbourne, England.

by the arbitrary refusal of AT&T to provide the required interconnection for datel access to the domestic telephone network; and that the Commission should take no action to permit AT&T entry into the foreign overseas voice/data demand market until it has been demonstrated that such entry is necessary in order to satisfy user requirements that cannot be met by the international record carriers.

To this end, WUI requests the Commission to institute appropriate discussions, under Commission aegis, among all interested carriers in order to effect the necessary interconnection and access arrangements between the domestic telephone network and the international record carriers. Such immediate action, coupled with liberalization of the usage of oral dialogue in WUI's existing datel service as noted above, should be implemented on no less than a three-year experimental basis, in order to demonstrate that the international data/voice demand market can be fully satisfied by existing international record carriers without the inevitable competitive trauma that would be caused by the entry of AT&T into this marketplace.

Very truly yours,

Robert E. Conn

cc:All Commissioners

Chief, Common Carrier Bureau

American Telephone & Telegraph Co.
ITT World Communications Inc.
RCA Global Communications, Inc.
TRT Telecommunications Corp.
U.S. Department of Justice
Anti-Trust Division

Western Union International, Inc.
ONE WUI PLAZA · New York, N.Y. 10004

ROBERT E. CONN
Executive Vice President

Telephone: (212) 363-6404

December 4, 1975

Honorable Richard E. Wiley
Chairman
Federal Communications Commission
Washington, D.C. 20554

RE: International Datel/Dataphone
Dial-up Service Inquiry
Docket No. 19558

Dear Chairman Wiley:

By our letter of October 17, 1975, Western Union International, Inc. (WUI) brought to your attention certain relevant anticompetitive conduct by the American Telephone & Telegraph Company (A.T.&T.) and its associated Bell System companies subsequent to the institution of the referenced inquiry of July 26, 1972, concerning data/voice dial-up (demand) service to foreign overseas points.

In its reply letter of November 18, 1975, addressed to you, A.T.&T.: (a) denied such anticompetitive conduct; (b) accused WUI of evincing a long-delayed and transparent interest in providing this demand service only because of a possible imminent adverse Commission decision; and (c) sought to derogate WUI's position by enshrouding it in the familiar rhetoric of "protectionism" and "market cartelization" which is currently in vogue among Bell System advocates.

It is essential to the Commission's deliberations in Docket No. 19558 that all relevant facts are exposed for its consideration, particularly those that have unfolded since the end of this Docket's pleading stage -- 2-1/2 years ago. WUI will briefly document a decade of relevant anticompetitive conduct by A.T.&T. designed to delay this overseas data/voice demand service until A.T.&T. has positioned itself into a strategically dominant position.

On June 15, 1965, in an application to the Commission, WUI first called for interconnection of its overseas datel service with A.T.&T.'s domestic dataphone service (F.C.C. File No. T-C-1896). In its reply comments to the Commission of June 21, 1965, A.T.&T. contended that the interconnection issue was not yet ripe for Commission decision and professed a lack of understanding of the type of interconnection being sought by WUI. This was followed by a series of correspondence between WUI and A.T.&T. consisting of four letters, copies of which are attached hereto for your convenience as Attachments A-1, A-2, B and C. WUI's letter of November 15, 1965 (Attachment A-2) adverted to the then existing antiquated method of "interconnection" whereby WUI was forced to manually intercept calls originating from domestic dataphone callers, and relay incoming perforated tape to an outgoing overseas circuit; and requested "direct" interconnection. By its reply letter of January 6, 1966 (Attachment B), A.T.&T. stated that such "direct connection...would be a radical departure from the existing pattern of international communications and one which we are not persuaded is required by the public interest at this time." (Emphasis Added).

During subsequent years, WUI reiterated its position before the Commission including, for example, its statements supporting institution of overseas data/voice demand service in Docket No. 18875 (Transcript of Informal Conference On Transatlantic Communications, June 17, 1971, pp. 31-34). Also, in its application of July 14, 1972 for authority to provide overseas data/voice demand service, WUI again called for reasonable and non-discriminatory interconnection by A.T.&T.

On July 26, 1972, The Commission adopted its Notice of Inquiry in this Docket (36 F.C.C. 2d 605). It is not coincidental that only one month later, by letter of August 31, 1972, A.T.&T. offered to provide WUI with a "direct electrical connection" between its domestic network and WUI's overseas datel service (Attachment C). Such a gesture provided A.T.&T. with the facade of a justification for its comments of January 11, 1973 in Docket No. 19558 that it should be permitted to enter into overseas dataphone service in exchange for providing interconnection privileges to WUI. While this type of interconnection might have temporarily sufficed

in 1965 when first requested by WUI, by 1972-3 it was just as antiquated as the above-described 1965 vintage.

This so-called "direct electrical connection" merely joined WUI's facilities to the domestic telephone network via two-wire data access arrangements similar to that obtainable by any individual telephone subscriber. Such interconnection is obviously not acceptable for a common carrier and is grossly inferior to the type of interconnection between the Bell System associated companies and the independent telephone companies on the one hand, and A.T.&T.'s Long Lines Department, on the other hand.

During the last three years, covering the period subsequent to the institution of Docket No. 19558, WUI has been continuously rebuffed by the Bell System and its affiliated and nonaffiliated operating company partners, in WUI's quest for four-wire trunk interconnection into a tandem telephone switching exchange. This type of interconnection is essential to enable WUI to provide high quality automatic service, improve customer dial access, and capture necessary customer billing information. Pursuant to this objective, WUI engaged in a series of correspondence with the New York Telephone Company, which is attached hereto for your convenience as Attachments D, E, and F. On January 29, 1973, WUI wrote to New York Telephone indicating that a lack of automatic interconnection was deterring the development of datel service and requesting:

> "...[Y]our agreement to permit telephone subscribers located within the State of New York to automatically interconnect with the overseas facilities of WUI in order that WUI will be in a position to furnish the public within the State of New York an international 'dataphone' type of service." (Attachment D).

By reply letter of February 23, 1973, New York Telephone concluded that WUI's request was "premature" because of the pending F.C.C. Docket Nos. 19558 and 19660 (Attachment E). WUI responded on February 27, 1973, in part, as follows:

> "It is not within the prerogative of your company to avoid responding substantively to WUI's reasonable requests on the grounds of the pendency of certain proceedings before the Federal Communications Commission. That Commission, not New York Telephone Company, will determine the applicability of its proceedings, policies and rules to the overseas services offered by WUI." (Attachment F)

Again, by letter of June 4, 1974, WUI requested of A.T.&T. a carrier-to-carrier-type, rather than an individual subscriber-type, interconnection for its datel service with A.T.&T.'s "message network in the same manner as any class 5 central office of an independent telephone company might connect to an A.T.&T. toll office." (Attachment G). Once again WUI's request was rebuffed. In its reply letter of June 27, 1974, A.T.&T. admitted that it was treating WUI merely "as a customer" rather than as a connecting carrier; and sought to distinguish WUI from independent telephone companies on the grounds that the latter "are partners in a joint undertaking", whereas WUI is not. (Attachment H).

Finally, WUI has also been rebuffed by the so-called independent "partners" of the Bell System, even though they appeared cooperative when first approached by WUI for a carrier-to-carrier interconnection agreement for overseas datel service. For example, by letter of December 12, 1974, General Telephone of Florida declined our interconnection request and referred us back to the New York Telephone Company (Attachment I).

The foregoing summary convincingly rebuts A.T.&T.'s current allegations in its letter of November 18, 1975 to you, that: (a) A.T.&T. has not conducted itself in an anti-competitive fashion; (b) WUI is a late entrant into the matter of overseas data/voice demand service; and (c) WUI is guilty of, in Bell's current vocabulary, "protectionism" and "market cartelization".

The foregoing history demonstrates the accuracy of WUI's prediction of August 27, 1965:

> "Based on past history, AT&T would withhold complete and unrestricted interconnection of its domestic services with international services of other carriers, until AT&T was ready to exploit those same international services with offerings of its own. Then to palliate the adverse consequences of the inevitable dominion by it over these international services, AT&T would offer interconnection to the other carriers." (WUI responsive pleading concerning its 1965 application for interconnected datel/dataphone service, File Nos. P-C-6019, T-C-1896).

In view of a decade of anticompetitive behavior by A.T.&T. through its control of the domestic message telephone network, A.T.&T. must not be permitted to obtain any benefits in Docket No. 19558 from its misbehavior either through an authorization exclusively to provide dataphone service to foreign overseas points or to provide the service in competition with WUI and the other international record carriers. Consequently, WUI reaffirms its position as set forth in its letter of October 17, 1975 that WUI's proposed interconnected datel overseas service provides a viable alternative to unleashing A.T.&T. into an overwhelming position in still another telecommunications market.

Very truly yours,

Robert E. Conn

Robert E. Conn

Attachments

cc: All Commissioners
Chief, Common Carrier Bureau

American Telephone & Telegraph Co.
ITT World Communications Inc.
RCA Global Communications, Inc.
TRT Telecommunications Corp.
U.S. Department of Justice
Anti-Trust Division

BEST COPY AVAILABLE

ATTACHMENT A-1

RETYPED COPY

WESTERN UNION INTERNATIONAL, INC.

August 27, 1965

Mr. Harold M. Botkin
Assistant Vice President
International Services
American Telephone & Telegraph Co.
32 Avenue of the Americas
New York, New York 10013

Dear Mr. Botkin:

Enclosed is a copy of a "Response" filed today with the Federal Communications Commission in support of WUI's position that it should be authorized to provide via satellite channels alternate data-voice message services, with complete and unrestricted interconnection with the domestic telephone network.

AT&T in its "Reply" of June 21, 1965, indicated that it "is not clear" from WUI's prior filing with the Commission "just what type of interconnection arrangement WUI proposes." It is hoped that the enclosed "Response" clarifies this matter.

AT&T is respectfully requested to agree to interconnect, on equitable and nondiscriminatory terms, its domestic telephone facilities with the facilities of WUI in order that the benefits of WUI's present (datel and datatelex) and proposed international alternate data-voice message services might be extended to the greatest number of subscribers in the United States and abroad.

Very truly yours,

Robert E. Conn (signed)
Vice President and Counsel

ATTACHMENT A-2

RETYPED COPY

WESTERN UNION INTERNATIONAL, INC.

November 15, 1965

Mr. Harold M. Botkin
Assistant Vice President
International Services
Long Lines Department
American Telephone and Telegraph Co.
32 Avenue of the Americas
New York, New York 10013

Dear Mr. Botkin:

Western Union International offers its overseas data transmission services to the public throughout the continental United States. Subscribers of the American Telephone and Telegraph Company may transmit their data communications via WUI pursuant to its Overseas Datel Service Tariff FCC No. 11 and its Overseas Broadband Exchange Service Tariff No. 6.

In connection with its data transmission services, WUI is endeavoring to avoid any unnecessary costs resulting from redundant central office equipment and at the same time avoid any artificial barriers which might be interposed to the detriment of the service. The public has its choice of computers and business machines supplied by many different manufacturers. No useful purpose would be served by the installation at WUI's central office of the many varieties of machines available to the public in order to intercept data communications from subscribers intended for their overseas correspondents. The imposition of any such artificial and unnecessary barriers between data correspondents would only serve to increase the cost of service and detract from its efficiency.

It is clear that subscribers to the Broadband Exchange Service of The Western Union Telegraph Company may transmit their overseas data communications directly to their overseas correspondents via the international record carriers.

These carriers are not required to invest in costly redundant business machines for the unnecessary function of intercepting these data communications for retransmission abroad.

Please confirm by reply letter that the Telephone Company will permit direct overseas data calls via Telephone Company facilities in conjunction with WUI's existing data transmission services and that no requirements will be imposed upon WUI to intercept and terminate these calls as a condition precedent to the transmission abroad via WUI's facilities.

There remains the matter of the modems necessary to provide data transmission service between Telephone Company subscribers in the United States and their subscribers abroad. Please advise whether the Telephone Company intends:

(a) To provide CCITT-recommended modems to its subscribers who wish to avail themselves of WUI's overseas data services; or

(b) To modify one or more of its modems to conform with CCITT recommendations as applicable for 600 and 1200 baud operation; or

(c) To permit WUI to furnish CCITT-recommended modems to Telephone Company subscribers who wish to avail themselves of WUI's overseas data services. In the event that the Telephone Company intends to follow the alternative mentioned in this paragraph, please advise whether the Telephone Company is willing to provide maintenance service for WUI-supplied modems on a contractual basis with WUI.

Your prompt cooperation in this matter will be greatly appreciated.

Yours very truly,

P.R. Easterlin (signed)
Vice President

ATTACHMENT B

RETYPED COPY

AMERICAN TELEPHONE AND TELEGRAPH COMPANY
LONG LINES DEPARTMENT

January 6, 1966.

Mr. P. R. Easterlin, Vice President
Plant and Engineering
Western Union International, Inc.
26 Broadway
New York, New York

Dear Mr. Easterlin:

We have reviewed the proposals included in your letter of November 15, 1965 as clarified in the letter from Mr. Conn to Mr. Ashley of December 2 concerning direct connection between your message type overseas data services and our domestic DATA-PHONE service.

The currently effective service arrangements would appear to be adequate to meet present needs. As you know, these include tie line connections to those of your customers who are located in your gateways, private line connections to customers in other locations, and back-to-back connections of our DATA-PHONE set with your data equipment. In addition, of course, as you point out in your letter, your overseas data services can be made available to customers in the United States by means of Western Union's Broadband Exchange Service.

Our DATA-PHONE offering is quite different from your message data services. DATA-PHONE service is an adjunct to regular message telephone service rather than a distinctive and separate data offering. If there were to be direct connection between DATA-PHONE service and your message type overseas data services, there would be no restriction whatever on tne use of such an interconnected service for voice communication. This would be a radical departure from the existing pattern of international communications and one which we are not persuaded is required by the public interest at this time.

Turning now to the questions you raised concerning modems, inasmuch as we do not believe direct interconnection of our message network and yours is required in the interest of service to the public, any possible operating difficulties due to differences in the modems used on our network and those used overseas need not be resolved. On private line circuits, which can be directly interconnected, there would appear to be no problem in the event the modems used at the distant end will not work with ours. Our customers are permitted to provide their own modems on our private line circuits so long as they do not interfere with or impair the proper operation of the telephone system.

Yours very truly,

H.M. Botkin (signed)
Assistant Vice President

RETYPED COPY ATTACHMENT C

AMERICAN TELEPHONE AND TELEGRAPH COMPANY

August 31, 1972

Mr. E.A. Gallagher, President
Western Union International, Inc.
26 Broad Street
New York, N.Y. 10004

As an outgrowth of earlier discussions and meetings on the subject, I am now able to tell you that AT&T agrees in principle to direct electrical connection at your premises of Bell System local loops used to provide Message Telecommunications and Wide Area Telecommunications (WATS) Services with the facilities used by your company to provide Overseas DATEL service. We understand that this connection is for the purpose of making possible the transmission of data or other non-voice communications, as covered in your Overseas DATEL tariff, between telephone customers in the United States and customers in overseas points to which your company is authorized by the F.C.C. to provide Overseas DATEL service.

This agreement to connect is contingent upon your agreement to comply with necessary criteria so as to protect our network and your obtaining a sufficient number of lines to preclude any blockage of incoming calls which would interfere with any of the services offered by the Telephone Company.

The facilities used to provide Message Telecommunications and WATS Services are designed primarily for voice transmission, and are not represented as adapted to the use of customer-provided terminal equipment. From the Telephone Company standpoint, such connection would be permissive, and the Telephone Company would not be responsible for the quality of data and other non-voice transmission between the user's telephone instrument and the point of connection with your DATEL facilities.

There will, of course, be charges for the use of our lines and charges for long distance calls which would apply whether or not an overseas transmission takes place.

We will be glad to meet with you at your convenience to work out the details of this arrangement.

Sincerely,

(Sgd.) R.B. NICHOLS

ATTACHMENT D

RETYPED COPY

WESTERN UNION INTERNATIONAL, INC.

January 29, 1973

G.W. Bates, Esquire
General Counsel
New York Telephone Company
120 West Street
New York, New York

Dear Mr. Bates:

Western Union International, Inc. (WUI) a common carrier whose principal operations are located in New York City, presently provides an overseas "datel" service which furnishes to customers a data operation -- with voice coordination of the data transmission. WUI is seeking authority to expand this service by removing the inhibiting restriction of voice purely as coordination. WUI is already authorized to provide such an unrestricted service to Hawaii.

However, one of the deterrents to expanding this service has been a lack of automatic interconnection with the public telephone switched network.

We should therefore like to obtain from you your agreement to permit telephone subscribers located within the State of New York to automatically interconnect with the overseas facilities of WUI in order that WUI will be in a position to furnish the public within the State of New York an international "dataphone" type of service.

A prompt reply is requested in light of the pendency of proceedings before the Federal Communications Commission which will require WUI to address itself to this question within the next few weeks.

Copies of this letter have been forwarded to the Federal Communications Commission, the Office of Telecommunications Policy and the New York Public Service Commission.

Very truly yours,

E. Brod (Signed)
Vice President & Counsel

cc: Mr. Bernard Strassburg, Chief, Common Carrier Branch, FCC
Mr. Ben F. Waple, Secretary, FCC
Mr. Clay T. Whitehead, Director, OTP
Mr. Joseph C. Swidler, Chairman, PSC
Mr. Samuel R. Madison, Secretary, PSC

ATTACHMENT E

RETYPED COPY

NEW YORK TELEPHONE COMPANY
LEGAL DEPARTMENT

February 23, 1973

Mr. Ernest Brod
Vice President and Counsel
Western Union International, Inc.
25 Broadway
New York, N.Y. 10004

Dear Mr. Brod:

Your letter of January 29th in which you request automatic interconnect for overseas "datel" service without voice restriction and your letter of February 2nd in which you request the Company to bill our subscribers directly for WUI overseas cablegrams have been referred to me.

After reviewing your requests, it is our conclusion that in view of the pending F.C.C. dockets Nos. 19660 and 19558, a commitment on the part of this Company at this time would be premature. Upon resolution of the two F.C.C. dockets mentioned above, we will be happy to discuss the matter further.

Very truly yours,

Burton K. Katkin (signed)
General Attorney

ATTACHMENT F

RETYPED COPY

WESTERN UNION INTERNATIONAL, INC.

February 27, 1973

Burton A. Katkin, Esq.
General Attorney
New York Telephone Company
Legal Department
140 West Street
New York, N.Y. 10007

Dear Mr. Katkin:

Receipt is acknowledged of your letter of February 23, 1973, in which you decline to respond substantively to WUI's requests: (1) for automatic interconnection between telephone subscribers located within New York and WUI's overseas datel facilities (WUI letter, January 29, 1973); and (2) to bill telephone subscribers located within New York directly for overseas cablegrams filed by telephone with WUI (WUI letter, February 2, 1973).

Your letter contains the following:

> "After reviewing your requests, it is our conclusion that in view of the pending F.C.C. dockets Nos. 19660 and 19558, a commitment on the part of this Company at this time would be premature. Upon resolution of the two F.C.C. dockets mentioned above, we will be happy to discuss the matter further."

It is not within the prerogative of your company to avoid responding substantively to WUI's reasonable requests on the grounds of the pendency of certain proceedings before the Federal Communications Commission. That Commission, not New York Telephone Company, will determine the applicability of its proceedings, policies and rules to the overseas services offered by WUI. There is enclosed for your information a copy of a letter, dated September 1, 1971, from the Commission to another telephone company advising it to this same effect.

Your prompt reply to our aforementioned requests of January 29 and February 2, 1973 will be greatly appreciated.

Very truly yours,

E. Brod (Signed)
Vice President and Counsel

Enclosure

cc: Mr. Joseph Swidler, Chairman, PSC
Mr. Samuel R. Madison, Secretary, PCS
Mr. Ben F. Waple, Secretary, FCC
Mr. Bernard Strassburg, Chief,
Common Carrier Bureau, FCC

RETYPED COPY ATTACHMENT G

WESTERN UNION INTERNATIONAL, INC.

June 4, 1974

Mr. C.W. Jackson
American Telephone & Telegraph Co.
Director of Business Relations
195 Broadway
New York, N.Y. 10007

Dear Mr. Jackson:

Western Union International, Inc., a common carrier whose principal operations are located in New York City, provides an overseas switched data service known as "Datel", which furnishes to customers data operation -- with voice for coordination purposes.

This service is presently interconnected to the AT&T Long Distance Message Telecommunications network via two wire subscriber access lines and manual data access arrangements provided by the New York Telephone Company. This interconnection arrangement was established in March 1973. In order to improve the quality of Datel calls which are interconnected to the AT&T network, and to automate the setting up and disconnection of calls, WUI proposes that our interconnection for Datel service be changed to one that is more suitable. Our engineering department has reviewed the technical aspects in this area, and their recommendation is that AT&T provide a four wire trunk interconnection into a tandem switching exchange (class 4 office or higher). This type of interconnection would result in improved transmission parameters and greatly improved signalling conditions, as well as allowing some automation of the service.

In addition, we wish to establish a fair and equitable toll settlement procedure for Datel calls, since WUI now absorbs the domestic connection charge for all calls. Presently outbound calls are established on a collect basis leading to the necessity for additional operator assistance and transmission problems due to the operator switchboards.

Summarizing, we are seeking to interconnect Datel service to the AT&T message network in the same manner as any class 5 central office of an independent telephone company might connect to an AT&T toll office. The requested interconnection could be made on a contract or tariff basis.

May we have an early response please?

Very truly yours,

L.A. Cohen (Signed)
Director of Marketing

ATTACHMENT H

RETYPED COPY

AMERICAN TELEPHONE AND TELEGRAPH COMPANY

June 27, 1974

Mr. L. A. Cohen
Director of Marketing
Western Union International, Inc.
26 Broadway
New York, N.Y. 10004

Dear Mr. Cohen:

This is in response to your letter of June 4, 1974 relative to the interconnection of Bell System exchange services and the overseas "DATEL" service provided by Western Union International Inc. (WUI). As pointed out in your letter, DATEL is a data service utilizing voice coordination which, of course, is not the same as alternate voice-data service. The interconnection is thus between a WUI data service and a Bell exchange voice service which may be used alternatively for data transmission.

The interconnection which now exists in New York City is being made on the basis of a service interconnection whereby each carrier is responsible to its customer for its own service from the point of connection. There is no joint through service responsibility and there is no tariff guarantee of overall quality of the interconnected services to the WUI customer. The Telephone Company is rendering its exchange service to WUI as a customer and has agreed to the connection in the interest of providing access in New York to WUI's overseas DATEL service.

This concept is consistent with the Bell System's interest in expanding public opportunity for data transmission overseas through its application to the FCC for the introduction of overseas DATAPHONE service (Docket No. 19558).

Your letter attempts to draw an analogy to the interconnection arrangements between the Bell System and Independent telephone companies, but such an analogy is not valid as the circumstances are quite different. Bell Companies provide a joint through service with the Independents under tariffs in which the

Independents concur, and the customer pays a rate for service between the terminal points. Thus, the Telephone Companies are partners in a joint undertaking. Under the existing DATEL interconnection arrangements WUI is free to absorb the charges for the domestic service or to include these charges in its DATEL rate structure. Since there is no joint through service, there is no need for a toll settlement procedure.

It may be that the existing arrangements for setting up and disconnection of calls can be improved upon. In view of this we suggest that WUI contact Mr. A.R. VanPetten, Business Relations Coordinator of the New York Telephone Company to explore the possibility of automating the interconnection arrangements on WUI premises.

Yours very truly,

C. W. Jackson (Signed)
Business Relations Director

cc: A.R. VanPetten

ATTACHMENT I

RETYPED COPY

GENERAL TELEPHONE COMPANY OF FLORIDA

December 12, 1974

Mr. K. M. Jockers
Western Union International, Inc.
One WUI Plaza
New York, New York 10004

Dear Mr. Jockers:

This is in response to your letter of October 25, 1974 and the several conversations and meeting with Mr. S. E. Mitteldorf concerning a Tampa-New York trunk group for Datel.

Through the conversations and meeting, as well as our own investigation, we have reviewed this matter in considerable detail. The initial consideration was that a dedicated trunk group with some combination of WATS/INWATS would meet your requirements. However, as covered in the meeting of November 8, because of translation requirements and the fact that we are not the principal city for INWATS translation, such arrangement does not appear feasible.

Further discussion and review indicates that from a technical standpoint, the only workable arrangement would be the dedicated trunk group with an 813 NNX code reserved for your use. The message toll network would then be utilized for handling Datel traffic between Tampa and the point of origination or termination (within the United States) with the associated message toll charges. For several reasons, this would appear to be an uneconomical method of operation.

In addition, the reservation of an NNX code for such restricted use causes us considerable concern. While this may not be an immediate problem there is a limit to the number of such codes available and to dedicate an entire code to such a few subscribers appears imprudent. Accordingly, we do not believe that further exploration of such an arrangement would be worthwhile for either company.

We share your concern in regard to the problems you are facing with the present arrangement and hope that a satisfactory solution can be found. It would seem that this might best be accomplished right in the New York area.

Very truly yours,

John H. Hancock (Signed)
Director of Business Relations

CERTIFICATE OF SERVICE

I, Mary Chin, do hereby certify that on this 23rd day of July, 1976, I mailed a copy of the "Petition to Defer or Deny" of Western Union International, Inc. by United States mail, postage prepaid, to the following:

American Telephone & Telegraph Company
32 Avenue of the Americas, Room 2510
New York, New York 10013
Attn: Alfred G. Walton, Esq.

ITT World Communications Inc.
67 Broad Street
New York, New York 10004
Attn: Joseph J. Jacobs, Esq.

The French Telegraph Cable Company
25 Broad Street
New York, New YOrk 10004
Attn: Mr. J. A. Berenger, Manager

RCA Global Communications, Inc.
60 Broad Street
New York, New York 10004
Attn: Francis J. DeRosa, Esq.

TRT Telecommunications Corporation
1747 Pennsylvania Avenue
Washington, D.C. 20006
Attn: Roderick A. Mette, Esq.

/s/ Mary Chin

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

In the Matter of	)	
AMERICAN TELEPHONE AND TELEGRAPH COMPANY	)	
For appropriate modification of existing authorizations issued under Section 214 of the Communications Act of 1934, as amended, to permit the use of the Message Telecommunications Service network for DATAPHONE transmission between points in or reached via the United States Mainland, on the one hand, and overseas points, on the other hand.	)	File No. I-P-C-12

PETITION TO DISMISS OR DENY

RCA Global Communications, Inc. (RCA Glōbcom) hereby petitions the Commission to dismiss or, alternatively, to deny the above-captioned application of American Telephone and Telegraph Company (AT&T) to provide Dataphone service between the U.S. Mainland and overseas points. RCA Glōbcom submits that the Commission must dismiss or deny this application because of AT&T's willful failure to furnish appropriate interconnection facilities to the voice/record carriers for their service offerings pursuant to Paragraph 16 of the Commission's Report and Order in Docket No. 19558, released January 19, 1976, 57 FCC 2d 705, hereafter the "Dataphone Order."*

*The Commission's determination in that Order to permit AT&T to apply to enter the overseas data communications market is presently under review by the U.S. Court of Appeals for the Second Circuit. (ITT World Communications Inc. et al. v. FCC, Docket Nos. 76-4049, etc.)

Summary of Position

The Commission specifically stated in the Dataphone Order its expectation "that appropriate agreements for interconnection can be reached, pursuant to our policies established for domestic common carriers."* Thus, it was intended that AT&T provide for interconnection with the voice/record carriers for their services on a "full, fair and nondiscriminatory basis" consistent with the principles set forth in the domestic private line cases. By definition, "full, fair and nondiscriminatory" means that access arrangements must be provided by AT&T in such a way as to insure that the public finds it fully as convenient to use the public switched telephone network to reach the overseas facilities of the voice/record carriers as it is to reach the overseas facilities provided by the AT&T Long Lines Department. Anything short of that would seriously prejudice the voice/record carriers in their attempts to deal with the largest class of domestic data customers who use public network facilities controlled by AT&T and its affiliates. As stated by the Court of Appeals, "[v]iewed in its entirety, the FCC's opinion in Docket No. 19896 operates to preclude AT&T from treating its Long Lines Department and its affiliates differently

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*Dataphone Order, para. 16, citing Bell System Tariff Offerings, 46 FCC 2d 413 (1974), aff'd sub nom Bell Telephone Co. of Pennsylvania v. FCC, 503 F. 2d 1250 (3d Cir. 1974), cert. denied, 95 S. Ct. 2620 (1975).

than it treats the specialized common carriers."* We believe the rationale of this ruling is equally applicable here.

Unless the Commission takes measures prior to a grant to AT&T to assure that the voice/record carriers receive the "full, fair and nondiscriminatory" treatment to which they are lawfully entitled, the effect of the Dataphone Order will be not only to allow AT&T to serve the overseas switched data transmission market, but to give it as a practical matter a virtual monopoly of that market. Clearly, a reasonable opportunity must be afforded to the voice/record carriers to obtain a share of the overseas data business generated by customers on the public switched telephone network to "provide users with flexibility and a wider range of choices" to meet their overseas data communication requirements.**

While the overseas switched data market will be de minimis to AT&T,*** it nevertheless constitutes a sizable and important market for the much smaller voice/record carriers. This is especially relevant since revenues derived from any new communications service are composed of a shift from existing services as well as new business.

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*Bell Telephone Co. of Pennsylvania v. FCC, supra, at p. 1273.

**Specialized Common Carrier Services, 29 FCC 2d 879, 909 (1971).

***AT&T estimates that, of the billion dollar annual overseas telephone market in 1980, revenues from overseas Dataphone calls will amount to only approximately $18.6 million or about 2 percent of the total. (AT&T Application, para. 10)

As the Commission is aware, the type of information handled by means of the dataphone-type services proposed by AT&T is essentially that now accommodated by the existing overseas Datel service provided by the voice/record carriers.* The market for international telex, the voice/record carriers most profitable service, would also be affected, since information now carried by international telex facilities will likely shift to the high-speed Dataphone service.

By imposing the requirement upon AT&T to interconnect, the Commission recognized that it would be arbitrary and unreasorable to compound the severe handicap under which the voice/record carriers will be required to operate in attempting to provide their overseas switched data and facsimile services in a market served directly by AT&T, given the Bell System's size, nationwide service area and effective monopoly of both domestic and international message telephone service. However, this is precisely what would

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*See ITT World Communications Inc., 2 FCC 2d 573, 576 (1966). It should be remembered that "Dataphone" is not a generic term describing a service which is available only, or only properly, from AT&T; rather is a trade name for AT&T's brand of switched data, facsimile and other record transmissions provided through its domestic system.

happen if AT&T is granted authority to proceed to provide overseas Dataphone service while it not only enjoys a "built in" advantage arising from the fact data subscribers using the domestic telephone network will have to follow more complex procedures and experience greater delays to access the facilities of the voice/record carriers than to send their overseas data calls via AT&T but also flouts the requirement of the enabling order to provide interconnection. In such circumstances, there is little likelihood any appreciable amount of data or facsimile traffic originating or terminating on the public switched telephone network will ever reach the voice/record carriers.

Although the Dataphone Order expressly contemplated that fair interconnection would be provided to the voice/record carriers, in its "Reply" of April 24, 1976 to the specific interconnection proposals filed by the voice/record carriers on April 9, 1976, AT&T stated categorically that it is "not prepared to discuss any 'parity' demand." AT&T essentially reiterated these views at the meeting on this subject held by the Commission on June 22, 1976. Thus, it would appear that AT&T does not intend to give effect to the Commission's decisions and to provide on a voluntary basis access arrangements to the voice/record carriers in a way which would insure that data customers find it as convenient to use the public switched telephone network to reach their facilities as it is to reach

facilities to be provided by the AT&T Long Lines Department for overseas data service.

This inaction on AT&T's part should be no surprise. Indeed, as the Commission is well aware, even after the Court of Appeals upheld the Commission's determinations in Docket No. 19896,* the affected carriers were still forced to seek a compromise with AT&T. That AT&T could act in such a manner is due solely to its near monopoly power and not attributable in any way to the merits of its position.

In view of the position taken by AT&T, and in light of its past record in resisting interconnection, RCA Glōbcom submits that it would clearly be improper to entertain AT&T's instant application to provide overseas dataphone-type service unless and until AT&T complies with the Commission's interconnection policies. Consideration of the AT&T application in advance of such compliance would, we submit, negate the specific Commission requirement in this instance as well as weaken the basic structure of Commission policies on common carrier interconnection.

Moreover, as pointed out by the Commission's Staff at the June 22, 1976 meeting, AT&T represented to the Commission in Docket No. 19558 that:

> "If the record carriers provide the service, they will provide the overseas

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*Bell Telephone Co. of Pennsylvania v. FCC, supra.

> channel portion of the service, and in addition the arrangement to connect those channels with the public switched network. The voice carriers will provide the connecting public switched network."*

Accordingly, AT&T affirmatively stated it would provide appropriate interconnection facilities for such through service offerings with the voice/record carriers authorized by the Commission.

Certainly, under the circumstances, AT&T cannot be granted authority to proceed to offer overseas dataphone-type service until there is resolution of the interconnection question on a basis which is both fair and equitable and does not inherently discriminate against the voice/record carriers and prevent any reasonable possibility of competition with the services to be offered by the AT&T Long Lines Department. Consistent with the terms of the Dataphone Order, and AT&T's prior representations to the Commission upon which that Order rests in part, the Commission should accordingly issue forthwith "further appropriate orders"** to require compliance by AT&T with Commission policy on interconnection as a precondition to any grant to provide overseas dataphone-type service. Furthermore, such grants of authority as AT&T may eventually be given for overseas dataphone-type service must include "necessary conditions"***

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*"Comments of American Telephone and Telegraph Company," dated January 11, 1973, p. 20 (emphasis supplied).

**Dataphone Order, para. 16.

***Ibid.

requiring AT&T to meet all reasonable interconnection requirements of the voice/record carriers.

We further submit any grant to AT&T in advance of provision of the interconnect contemplated by the Dataphone Order would not comport with the guideline in Section 4(j) of the Act, 47 U.S.C. §154(j), that the Commission "conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice." Certainly, serious questions would be presented regarding the denial of due process to the voice/record carriers if the Commission proceeds to grant AT&T authority to provide tis own overseas Dataphone service offering, while AT&T uses its favored position domestically in a manner previously found by the courts and the Commission to be contrary to law to block effective participation in this market by the voice/record carriers.

In No Event Can AT&T Be Granted Authority to Offer Dataphone Service Overseas Until the Interconnection Contemplated by the Dataphone Order is Provided to the Voice/Record Carriers

The Dataphone Order expressly contemplated that necessary interconnection facilities for the voice/record carriers' services would be provided by AT&T in a manner consistent with the policies established in the domestic area.* In accordance with the terms of the Dataphone Order, RCA Globcom and other voice/record carriers submitted detailed proposals to the Commission on April 9, 1976

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*Paragraph 16.

with respect to interconnection arrangements with the domestic public telephone network which are deemed necessary for their existing and proposed overseas switched data, voice/data and facsimile services.

AT&T's response to these proposals, filed on April 26, 1976, would if adopted constitute a total abrogation of the Commission's policies on interconnection. Indeed, AT&T offered to do nothing to implement interconnection. Instead, it proceeded to attack vehemently the filings of its potential competitors, alleging that they "afford no basis for revised interconnection arrangements."* AT&T went on to state that "it is not prepared to discuss any demand" for operational and financial parity.** In sum, AT&T expressed a total unwillingness to provide on a voluntary basis the facilities which are deemed minimally necessary to give its competitors even the barest hope of competing with AT&T-provided services.

At the meeting convened by the Commission on June 22, 1976 to review the question of interconnection with the affected carriers, AT&T repeated its previous refusal to consider voluntarily any type of interconnection arrangement whereby the voice/record carriers might have access to data customers on the public telephone network in a manner which would make their services reasonably competitive with those proposed by AT&T. Thus, it would appear AT&T

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*AT&T "Reply", p. 3.

**Id., p. 7.

has reverted to a position in this proceeding in complete disregard of the Commission's decisions in Docket Nos. 18920 and 19896 and the court cases upholding such decisions.

It should be borne in mind that AT&T is no ordinary competitor. The unparalleled advantages it enjoys because of its ownership of both the domestic and international networks can scarcely be overcome by the most vigorous price and technological competition of the voice/record carriers without full, fair and nondiscriminatory access to domestic users. Unlike RCA Globcom and the other voice/record carriers, AT&T suffers no corporate or operational separation of its domestic and international activities. Its economic resources, technological capabilities and customer base are those of the dominant power in the worldwide communications industry. Its access to potential overseas customers is unburdened by the international gateways system under which the voice/record carriers must operate, and is enhanced immeasurably by its multiple role as local exchange carrier, intercity long lines carrier and overseas carrier. AT&T owns the intercity facilities which the voice/record carriers must lease in order to provide overseas dataphone services, and it has the power--and it now seems the intent--to handicap its prospective competitors indefinitely by denying or delaying the electronic interconnection without which their data services will fail to obtain the public acceptance necessary to make them viable.

To the extent that AT&T is able to impair the ability of the voice/record carriers to compete fully and effectively, it will have achieved to a major degree its stated objective of reversing recent Commission decisions which it has been resisting at every turn. Examples of this resistance have been seen in the interconnection equipment and "foreign attachment" cases, in the AT&T private line case, in the AT&T rate case, and in the proceedings involving interconnection of AT&T facilities with those of terrestrial and satellite competitors in the private line field. Most recently, AT&T has been found to have engaged in "predatory and anti-competitive" practices in its proposed offering of Digital Dataphone Service.* It may now also be seen in AT&T's instant effort with respect to the voice/record carriers' interconnection proposals.**

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*Initital Decision in Docket No. 20288, released July 2, 1976, FCC 76D-34, paras. 109-118, 137; cf. Concurring Statement of Commissioner Washburn in the "WATS" Case (Final Decision and Order, released June 2, 1976 in Docket No. 19989) in which he stated that the Commission "has essentially lost control over the rates Bell charges customers."

**Indeed, the Department of Justice has recently filed a civil antitrust suit against AT&T in which it alleges, inter alia, that AT&T has attempted to prevent, restrict and eliminate competition from other telecommunications common carriers by obstructing and attempting to obstruct their interconnection with the Bell System. (United States v. AT&T, Civ. No. 74-1698, filed Nov. 20, 1974.)

The Commission found in Bell System Tariff Offerings, supra, that AT&T and its affiliated Bell System companies had unreasonably denied or delayed the establishment of physical connections with specialized common carriers, and that AT&T had discriminated against these potential competitors in favor of its own Long Lines Department by denying them the interconnection privileges they required to engage in authorized interstate services.** To date, the efforts of the voice/record carriers to effectuate electronic interconnection with AT&T's facilities for their services have been met by similar obstruction and delay in this proceeding.

In short, if AT&T were to be allowed to proceed as planned it would have the power to dominate the overseas switched data market not because of any superiority of its service, but simply because it enjoys unparalleled advantages as a result of its near-monopoly status and the integrated relationship of the Bell System companies. Under these circumstances, any initial benefits resulting from AT&T's presence could well be just a prelude to an ultimate increase in concentration in that market, the eventual freezing of technological innovation and the imposition of non-competitive prices.

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*See also Carterphone, 13 FCC 2d 420, 14 FCC 2d 571 (1968); cf. ITT World Communications, Inc. v. New York Telephone Co., 381 F. Supp. 113 (S.D.N.Y. 1974).

The Commission has acknowledged of late that AT&T may have become too unwieldy to be truly responsive to the specialized needs of consumers. Thus, the thrust of many recent Commission rulings has been to place a check upon AT&T's power.*

Consequently, we submit that the Commission should not grant this application, or any other application of AT&T to provide overseas Dataphone service, until the required interconnection is provided to the voice/record carriers and appropriate measures are adopted to assure that AT&T Long Lines is not given inherent advantages which will preclude the voice/record carriers from this market.**

Interconnection Must Be
"Full, Fair and Nondiscriminatory"

Consistent with the rationale of the domestic interconnection cases cited in the Dataphone Order, AT&T must provide interconnection to the voice/record carriers for their services on a "full, fair and nondiscriminatory basis." We submit compliance

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*See, e.g., Specialized Common Carrier Services, 29 FCC 2d 871, 909-10, 31 FCC 2d 1106 (1971), affirmed sub nom., Washington Utilities & Transportation Commission v. FCC, 513 F. 2d 1142 (9th Cir. 1975), cert. denied, 423 U.S. 836 (1975); Microwave Communications, Inc., 18 FCC 2d 953 (1969); Carterphone, 13 FCC 2d 420, 14 FCC 2d 571 (1968); Allocation of Microwave Frequencies Above 890 Mc., 27 FCC 359 (1959).

**As noted above, the FCC's decision to entertain an AT&T application is now before the U.S. Court of Appeals. AT&T, on the other hand, did not seek reconsideration by the Commission or judicial review of the requirement imposed on it to provide interconnection.

with the Commission's policies require that such interconnection incorporate the following.

a. Access Arrangements Must Be Equitable

The voice/record carriers must be given the opportunity to reach data customers through the public telephone network on a basis that will give them a reasonable and nondiscriminatory opportunity to compete for overseas data business generated by such customers. Since convenience is the watchword of communications, it must be just as easy for a domestic subscriber using the public network to reach the overseas lines of the voice/record carriers as those of AT&T. Anything less than that, we submit, would not comply with the Commission's interconnection policies and, indeed, would confer on AT&T an undeserved and unwarranted competitive advantage resulting from its willful disregard of such policies as evidenced by its conduct to date in this proceeding.

As pointed out in our "Comments" of April 9, 1976, a major factor inhibiting the growth potential and ability of the existing Datel service of the voice/record carriers to satisfy the public's need has been the lack of suitable interconnection facilities to the domestic switched network. Thus, AT&T, by withholding from the voice/record carriers the necessary access arrangements to the public network which could have materially assisted in increasing the practical utility of Datel, in a very real sense is

largely responsible for creating the situation from which it now seeks to profit.

We submit the public will be disserved if AT&T is allowed to benefit from its own intransigence in providing an appropriate interconnect to the voice/record carriers to enable them to develop their Datel and related services. Certainly, it would be unreasonable to expect the voice/record carriers to expend the effort to promote and expand such services in a market dominated by AT&T if they are constrained from effective access to the largest single source of customers which employ public network facilities for data calls. Thus, if AT&T is allowed to offer its own service immediately under significantly more advantageous terms because customers can use AT&T overseas facilities with greater ease than the facilities of the voice/record carriers, the voice/record carriers could be effectively foreclosed from any part of this market.

b. Alternate Voice/Use of Datel Must Be Permitted

The second principal factor limiting the previous growth of the voice/record carriers' existing Datel service has been the restriction imposed by the Commission on alternate voice use except between the continental U.S. and Hawaii. Unless this restriction is eliminated prior to a grant to AT&T, AT&T will enter the market under terms and conditions which the Commission previously found afforded AT&T a decided competitive advantage.

As the Commission stated in authorizing the lifting of the voice restriction on Datel between the Mainland and Hawaii:

> "[U]nder our rulings A.T.&T. and HTC at present have a favored position in Hawaii because their Data-Phone customers are not restricted in the use of voice for contact control, as are the customers of the record carriers. ITT here merely asks the right to compete in a somewhat more equal manner with the voice carriers in providing its Datel Service, a service similar to Data-Phone, and we do not think that we should compound the advantage which the voice carriers now have by continuing a restriction on the amount of voice use the customers of the record carriers may make."*

Clearly, the rationale of this ruling is equally applicable to the instant situation and in keeping with the Dataphone Order. We submit even-handed regulation and basic fairness require that alternate voice use of the existing Datel service must first be permitted before AT&T entry is authorized.

c. The Quality of the Interconnection Facilities Provided Must Equal Those AT&T Provides for its Own Service

RCA Globcom submits AT&T should further gain no advantage by virtue of any technical constraints imposed on the voice/record carriers by the Bell System that are not imposed on overseas service provided through AT&T's Long Lines Department. AT&T should

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*ITT World Communications Inc., 2 FCC 2d 573, 576 (1966).

not be allowed to use arguments based on the size and complexity of the public network to promote its own service offerings while delaying indefinitely even limited market penetration by the voice/record carriers.

Certainly, there is no rationale to support AT&T "freezing" the voice/record carriers out of the market by technological means. This is especially relevant in light of the fact the Commission at no place found in Docket No. 19558 that the voice/record carriers were incapable either operationally or financially to provide service in accordance with their proposals.

RCA Glōbcom submits affirmative action on any AT&T proposal to provide overseas Dataphone service must therefore await the provision of an appropriate technical interface with the voice/record carriers upon terms and conditions acceptable to the carriers and approved by the Commission.*

d. Interconnection Charges Should Be Reasonable and Nondiscriminatory

Since the voice/record carriers will be required by the very nature of the effective AT&T monopoly of the domestic switched public telephone network to rely upon AT&T for the origination and termination of their traffic, any arrangements made for the sharing, or division, of tolls between the voice/record carriers and AT&T

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*The specifics of such an interconnection are set forth in detail in RCA Glōbcom's April 9, 1976 "Comments."

should also reflect both the letter and spirit of the Commission's requirements for uniform and nondiscriminatory treatment.* Thus, if Commission policy is to be implemented, the voice/record carriers must be accorded pricing, divisions and service treatment as favorable as, for example, the local telephone companies afford the Long Lines Department which will provide the overseas service in competition with the voice/record carriers. It is essential that arrangements be agreed to between AT&T and the voice/record carriers, who must interconnect with the Bell System, providing for the computation of payouts by the voice/record carriers to AT&T on fair and reasonable terms before AT&T is allowed to proceed with its own service.**

Conclusion

As shown above, if the Commission grants authority to AT&T for its overseas Dataphone service before full, fair and nondiscriminatory interconnection is provided to the voice/record carriers, AT&T at the very least will obtain a clearly undeserved and unjustified head start in serving this market. Indeed, if AT&T is allowed to offer its own service immediately under significantly more advantageous terms, the voice/record carriers could be effectively precluded from this market.

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*See Bell System Tariff Offerings, supra.

**RCA Globcom has suggested a proposed basis for such arrangements in its April 9, 1976 "Comments."

It is essential to the development of the entire overseas switched voice/data, data and facsimile market that voice/record carrier trunk access to the U.S. public telephone network be provided in the manner described in our "Comments on Interconnection" of April 9, 1976. Such access is required to reach the largest segment of the existing domestic data market which use public telephone network facilities; to have any realistic possibility of competition with AT&T-provided overseas switched voice/data service; and to generate adequate revenue to meet our investment requirements. However, as evidenced by the history of the Datel service development, where even limited direct electrical network connection took years to implement, there is no basis for assuming that the voice/record carriers will be able to obtain a "negotiated" AT&T interconnect on a voluntary basis in a reasonable time frame.

Accordingly, we request that the Commission take appropriate action consistent with the policies set forth in Bell System Tariff Offerings, supra, and affirmed by the courts, to require AT&T as a condition precedent to its own offering of overseas dataphone-type services to: (a) provide the voice/record carriers in a timely fashion with the interconnection facilities required for their services into the existing public telephone network; and (b) furnish such facilities on fair, reasonable and nondiscriminatory terms and conditions. We further request that the continuance of any authority as may ultimately be granted to AT&T to offer overseas

dataphone-type services be expressly conditioned upon its meeting all reasonable requirements of the voice/record carriers.

WHEREFORE, RCA Globcom requests that AT&T's application to provide overseas dataphone-type services be dismissed or denied and no application for such service be entertained until AT&T is fully in compliance with the policies set forth in the domestic private line cases which require AT&T to provide the voice/record carriers with the interconnection facilities they require on fair, reasonable and nondiscriminatory terms and conditions.

Respectfully submitted,

RCA GLOBAL COMMUNICATIONS, INC.

s/Francis J. DeRosa

s/Charles M. Lehrhaupt

Its Attorneys
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July 23, 1976

CERTIFICATE OF SERVICE

I, Audrey Gadson, hereby certify that on this 23rd day of July, 1976, I mailed a copy of the foregoing "Petition to Dismiss or Deny" of RCA Global Communications, Inc. by United States mail, postage prepaid, to the following persons:

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s/Audrey Gadson

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

In the Matter of	)	
	)	
AMERICAN TELEPHONE AND TELEGRAPH COMPANY	)	
	)	
For appropriate modification of existing authorizations issued under Section 214 of the Communications Act of 1934, as amended, to permit the use of the Message Telecommunications Service network for DATAPHONE transmission between points in or reached via the United States Mainland, on the one hand, and overseas points, on the other hand.	)	File No. I-P-C-12

To: The Commission

PETITION TO DENY

ITT World Communications Inc. (ITT Worldcom) hereby petitions the Commission to deny or defer action on the above cited application of the American Telephone and Telegraph Company (ATT) for the provision of overseas Dataphone Service.

By its Report and Order in Docket No. 19558 (Overseas Dataphone Service Inquiry), released January 19, 1976 (F.C.C. 76-10), the Commission determined that, as a matter of general policy, ATT should not be precluded from providing overseas Dataphone service and directed the Chief, Common Carrier Bureau to accept an application from that carrier pursuant to Section 214 of

the Communications Act, for the provision of such service in accordance with the terms of that Order. ITT Worldcom, which strongly disagrees with the Commission's determination in Docket 19558, has sought review of the referenced Report and Order in the United States Court of Appeals for the Second Circuit. Therefore, it will not further argue here the Commission's basic policy determination to require the Common Carrier Bureau to accept, for processing, ATT's application to provide overseas Dataphone service. However, ITT Worldcom does urge that the Commission recognize that the Petitions for Review filed with the Court of Appeals by ITT Worldcom and other international record carriers (IRCs) do raise points of substantial controversy, which may ultimately be decided against the Commission's position as set forth in the referenced Report and Order. Therefore, ITT Worldcom urges the Commission to defer any action on the instant AT&T application until such time as the Court of Appeals has had an opportunity to act on those petitions.

In the above-referenced Report and Order, the Commission found, as a condition of permitting ATT to provide overseas Dataphone service, that ATT should interconnect its domestic MTS facilities with the Datel (or like) facilities of the IRCs, in order to enable the IRCs to provide a switched record service competitive with ATT's prospective overseas Dataphone service. Pursuant to

that Order, the IRCs have sought interconnection arrangements with ATT which would provide equality of access from an ATT MTS subscriber to either the ATT overseas Dataphone service or to the competitive overseas Datel service offered by the IRCs. To date, however, despite a series of technical meetings, formal requests for such interconnection filed with the Commission, and finally a meeting among the Commission's Staff and all parties, for discussion of the issue, ATT has intransigently refused to agree to anything but a totally meaningless interconnection arrangement. It must be apparent, even to ATT, that when that carrier controls the medium of access for the vast majority of users of a service, and, as well, represents something of an omnipresence to those users, another carrier (or carriers) cannot have any hope of providing a viable competitive service without, at the very least, having an interconnection arrangement whereby those captive users can utilize the services of such competing carriers with the same degree of ease with which they access the carrier which has provided their entry medium into the communications network.

Therefore, ITT Worldcom submits that, not only is it vitally important that the Commission insist upon ATT providing the IRCs with an equality-of-access type interconnection, but that it also withhold action on the instant ATT application to

provide overseas Dataphone service until such time as ATT agrees to such an interconnection. Obviously, without the lever of action, or inaction, on the subject application, there is no practical way in which the Commission can "persuade" ATT to grant this vitally necessary interconnection in time to prevent irreparable damage to the competitive viability of the IRCs. Certainly gigantic ATT hardly needs an additional competitive advantage over the IRCs which it would derive from a head-start in overseas Dataphone service relative to the initiation of a comparable service offering by the IRCs. In those circumstances, the IRCs, in order to market their services, would have to overcome not only the omnipresent ATT status in the minds of potential overseas Dataphone/Datel users, but equally serious, would have to overcome the very-human problem of inertia on the part of users who had already gotten used to routing this type traffic through ATT.

Indeed, ITT Worldcom would suggest to the Commission that even with equality of interconnection and simultaneous start-up times, ATT--with its omnipresence, its economic power many orders of magnitude greater than that of all of the IRCs collectively, and it inherent ability (whether consciously or not) to subtly influence traffic to stay with the ATT system "all the way"-- is very likely to enjoy an overwhelming competitive advantage over the IRCs in

the best of circumstances. Therefore, ITT Worldcom urges that the Commission, if it determines to grant the ATT application, at the very least, follow the precedent established in Domestic Communications-Satellite Facilities, F.C.C. Docket 16495 (35 F.C.C. 2d 844). Accordingly, the Commission should establish a moratorium on the provision by ATT of the overseas leg of an overseas Dataphone service, thereby restricting that carrier to providing the service only via an interconnection with the IRCs during the period of such a moratorium. 1/ This would at least permit the IRCs to establish a toehold in the market before being confronted with ATT's overwhelming competitive and marketing advantages. 2/

1/ A period of three years, just as applied in the Domsat proceeding would appear appropriate. However, should the Commission opt for a shorter period, ITT Worldcom would urge that at least a two-year moratorium be established and subject to Commission review at the end of such period as to whether a longer term should be established.

2/ Note that the same concerns expressed by the Commission in the Domsat case are equally relevant here. See paragraph 9-10 thereof (p. 847) where the Commission concluded that it was required to "take appropriate measures toward the end that a reasonable opportunity for effective entry is not defeated or weakened by AT&T, either directly or through its existing or future relationship with Comsat. In this regard, we cannot ignore the effect upon achievement of our objectives that might result from AT&T's existing economic strength and dominance stemming from its multi-billion dollar terrestrial investment and operations and its permeating presence and influence in all domestic communications markets", and that, "in addition, where AT&T combines its monopoly and competitive services on the same facilities, it is difficult to identify AT&T's relevant costs associated with specialized services to insure that revenues from the monopoly services are not being used to subsidize any part of its competitive services".

A moratorium would offer the additional benefit of easing, or possibly eliminating, the alleged cost burden to ATT for implementing a full-equality-access type interconnection. With such an initial moratorium, preventing ATT from providing the overseas portion of the overseas Dataphone-type call, the competitive necessity for the IRCs to achieve such a full equality access could be postponed for some reasonable period of time. ATT would therefore be able to phase-in the necessary changes over a fairly long period of time and therefore should be able to substantially reduce any cost burden associated therewith.

In addition to general questions of competitive fairness and equity, as hereinbefore discussed, a fundamental factual premise underlying the ATT application also merits serious consideration by the Commission. ATT represents that it can implement an overseas Dataphone service without additional costs, using its existing overseas MTS facilities. This premise appears to represent, as well, the fundamental basis for the Commission's decision to permit ATT to enter the overseas Dataphone market.

ITT Worldcom submits, however, that ATT will not be able to provide an acceptable grade of service for Dataphone users with its existing MTS facilities. A Dataphone-type call requires, for reasonably error-free transmission, a communication channel which is relatively "cleaner" (i.e., noise-free) than would be adequate for

voice transmission. It is ITT Worldcom's informed judgement that ATT is presently using at least some communications channels for its overseas MTS service which will not meet the higher quality standards needed for acceptable Dataphone transmission. Thus, a Dataphone user might discover after placing his call, making appropriate arrangements with the person answering the call for a Dataphone transmission, and then beginning to transmit data, that the circuit was not "clean" enough for reliable data transmission (possibly after several minutes of billing time have elapsed). In these circumstances the user has no choice but to hang up, redial his call, repeat the Dataphone hook-up, and hope that he got a "clean" circuit that time.[3/] It is nearly inconceivable that ATT will not receive complaints from users resulting from this "problem",

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3/ This problem is exacerbated by the ATT TASI equipment, which apparently continuously switches communications circuits between a number of specific "conversations" at pauses in those "conversions". Thus, the TASI equipment would be likely to switch to another, possibly inadequate circuit (for data) at, for example, the end of a page of facsimile transmission where a verbal inquiry was made as to the readability of the page transmitted, or upon changing from one to another mag-tape being transmitted.

and, particularly in a competitive environment, that it will not shortly take appropriate steps to either upgrade all of its "voice-quality" overseas MTS circuits or, alternatively, that it will add to its system appropriate facilities for detecting a Dataphone call and insuring that such calls are routed over the higher quality MTS circuits. 4/ This would, of course, completely undermine the premise that ATT will provide overseas Dataphone service without additional costs.

"Improvements" such as discussed above appear to ITT Worldcom to be covered by the requirement, in paragraph 12 of the Commission's above-referenced Report and Order, that ATT must obtain additional Section 214 authority before it can implement such changes. However, as a practical matter, ITT Worldcom questions whether this requirement is adequate to deal with the problem. Given the size and complexity of the ATT system, there is every reason to believe that ATT could accomplish these improvements under the guise of effecting other changes in its system, ostensibly unrelated to Dataphone.

4/ Assuming identical tariff rates for MTS and Dataphone, a serious question of discrimination would be raised by deliberate efforts to insure that one class of user gets a higher quality service.

This omnious power for ATT to completely circumvent the most careful designed Commission requirement for preserving a balance of competition, which is illustrated here, is symptomatic of problems which ITT Worldcom has in discerning how to compete fairly with an ATT. As the Commission obviously knows from its experiences in the domestic private-line and interconnection fields, ATT does not suffer competition lightly. And should ATT be authorized to provide overseas Dataphone service, it can be fairly predicted that it will systematically strive to eliminate the "nuisance" competition provided by the IRCs, not simply for Dataphone, but for all overseas data services. Nor can it be doubted that ATT, with its economic might and close ties and identification with the end user, can succeed in its intended goal.

The Commission even recognized in its Report and Order that the potential exists for a takeover by ATT of the overseas data market, following its entry as an overseas Dataphone carrier, but appeared to dismiss the matter as not one for serious concern. This apparent nonchalant attitude on the part of the Commission toward a potential ATT monopoly over international data services is in total conflict with the Commission's posture respecting domestic services. There, apparently frustrated with its past efforts to exercise any meaningful degree of control over the ATT monolith, the Commission has seemingly been moving with an almost single-mindedness toward diluting ATT's domestic monopoly, certifying competing carriers to ATT's

monopoly services wherever such competition seemed reasonable feasible.

In the instant case, by contrast, where a healthy degree of competition already exists, the Commission seems determined to gamble that it can add ATT to this market without having the competition swamped by ATT's market power and dominance. ITT Worldcom submits that the risks of such a gamble may well exceed the potential gains; it is hoped that the Commission will proceed here with due deliberation and caution.

It is interesting to note that ATT's application, in presenting traffic and revenue forecasts, makes the assumption that all traffic growth in overseas Dataphone-type service will accrue solely to ATT. This may simply be a reflection of that carrier's monopolist's mentality, or it could be a Freudian slip reflecting ATT's true ambitions for this market; it is obviously inconsistent with the Commission's present intent that there be competition in the market and thus is not responsive to the requirements of Part 63 of the Commission's Rules and Regulations.

Finally, ATT has asked the Commission to grant it blanket authority to serve the world, whether or not it has operating agreement with all of the specific administrations encompassed by such blanket authority. ITT Worldcom submits that the Commission has a long-standing policy against granting Section 214 authorizations for overseas points without the existence of an operating agreement

with the specific administration involved. ATT has provided no basis for deviation from that policy.

For the reasons set forth hereinbefore, ITT Worldcom therefore respectfully requests that the Commission deny the application of ATT to directly provide overseas Dataphone service.

Respectfully submitted,

ITT World Communications Inc.

By:

Joseph J. Jacobs

John A. Ligon

Its Attorneys
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Dated: July 23, 1976

CERTIFICATE OF SERVICE

I, Shawn Eames, hereby certify that I have on this 23rd day of July, 1976, mailed a copy of the foregoing "Petition to Deny" by United States Mail, postage prepaid, to the following persons:

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Chief, Common Carrier Bureau
Federal Communications Commission
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Washington, D. C. 20554

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BEST COPY AVAILABLE

Shawn Eames

Shawn Eames

AFFIDAVIT OF SERVICE BY MAIL

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

LINDA F. SUTTON, being duly sworn, deposes and says: deponent is not a party to the action, is over 18 years of age and resides at 135 East 50th Street, New York, New York 10022. That on the 30th day of July, 1975 deponent served three copies of each of the annexed Brief of Petitioner Western Union International, Inc. and Addendum to Petitioners' Briefs on:

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Attorneys for Respondent
Federal Communications Commission
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at the addresses designated by said attorneys for that purpose by depositing a true copy of the same enclosed in a postpaid properly addressed wrapper, official depository under the exclusive care and custody of the United States post office department within the State of New York.

LINDA F. SUTTON

Sworn to before me this
30th day of July, 1976.

Notary Public

KATHIE C. WALLACE
Notary Public, State of New York
No. 41-4136770
Qualified in Queens County
Certificate filed in New York County
Commission Expires March 30, 1977

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